SENATE—*Thursday, September 18, 1986*

(Legislative day of Monday, September 15, 1986)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

"Is anything too hard for God?"

God of Abraham, Isaac, and Israel, You addressed that question to Father Abraham when calling him to believe You in an impossible situation (Gen. 18:14). Faith responds, nothing is too hard for God. Gracious Lord, give us that faith.

"With men it is impossible, but with God, all things are possible." Jesus spoke those words to his disciples in an impossible situation (Matthew 19:26). God of the impossible, give us that faith.

When we are face to face with what seems an impossible situation, when nothing seems to work out right—when every option has led to a dead end—when we have reached our human extremity—Lord, give us the grace to trust in You in the confidence that "God works in everything for good to those who love Him and are the called according to His purpose." (Romans 8:28). Make us "more than conquerers through Him Who loves us." Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished and able majority leader, Senator ROBERT DOLE, of Kansas, is recognized.

Mr. DOLE. Mr. President, I thank the distinguished Senator from South Carolina, Senator THURMOND.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each. I am going to ask, after the distinguished minority leader either uses or reserves his time, that I may parcel out my leaders time, 5 minutes to the distinguished Senator from Connecticut, Senator WEICKER, and 5 minutes to the distinguished Senator from Florida, Senator HAWKINS.

We will assemble at 9:30 to go to the House for a joint meeting to hear an address by President Aquino.

We are in recess from 9:30 to 10:30. We will resume consideration of the reconciliation bill under a statutory time limitation of 20 hours, which can be reduced by motion or agreement. We will not make that effort at this time.

It is also my understanding there will be a meeting this morning of key players in the budget process, Republicans and Democrats. They are looking for some compromise that might satisfy the majority of Members in the House and the Senate. So it is a combined House-Senate bipartisan effort to see if they can reach some agreement. That would certainly expedite matters and help us reach the October 3 target date.

I must say, I am not discouraged. I still believe that is attainable, that adjournment date of October 3. But, on the House side, I would add that I am getting all kinds of rumblings that there is no way; that it will be October 10. So I guess, on the balance, you could say it was 50-50.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. ANDREWS). Under the previous order, the Democratic leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

THE DANILOFF CASE

Mr. BYRD. Mr. President, I received a letter from deputies of the supreme Soviet of the U.S.S.R. yesterday on the subject of nuclear testing. The deputies, the chairman and members of the so-called section on the issues of peace and disarmament of the U.S.S.R. parliamentarian group, indicated that if the United States were to join with the Soviet Union in banning all nuclear testing today, this would be a concrete contribution to the cause of peace.

I have responded to the letter from those deputies, and I believe that a number of my colleagues, in particular the Senators who serve on the arms control observer group, are being delivered identical letters. I indicated in my response that a most important concrete step that could be taken at the moment would be the unconditional release of Mr. Daniloff from the Soviet Union, and that this gesture by the Soviet leadership would go a long way toward the creation of an atmosphere conducive to a successful summit meeting.

I indicated further that on the nuclear testing issues, American negotiators in Geneva are fully empowered to discuss and determine that issue, and that the Geneva talks are the proper forum for these proposals—after all, that is why the Geneva talks were created in the first place.

I have been among the foremost in expressing the hope for another summit, and have urged the administration to work toward that end. This is a two-way street, however, and the continued irresolution of the Daniloff case is getting in the way of progress in the far more important area of arms control. The moratorium which is needed right now is on rhetoric, press conferences, and public expressions of confrontation and posturing—and the Soviet Union can demonstrate its aspirations for peace by eliminating this needless roadblock, this cold rain shower which seems to be gathering more energy as time goes on.

I ask unanimous consent that my reply to the letter delivered to me by the Soviets, together with their letter, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SEPTEMBER 15, 1986.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, DC.

DEAR SENATOR: The Soviet Union has proved more than once its aspiration for peace, for the creation of a comprehensive system of international security. Its decision to extend the unilateral moratorium on nuclear testing, announced by General Secretary of the Central Committee of the CPSU M.S. Gorbachev in his Statement on Soviet television of August 18, 1986, is yet another vivid example attesting to this. Soviet Parliamentarians sincerely hope, that under current circumstances, when the realities of the nuclear threat are being even more deeply understood in the world and the realization that it is impossible to win a nuclear war is widening, our American Colleagues would properly appreciate this highly responsible decision and support the proposal to cease nuclear testing which would become a first step toward the complete elimination of nuclear weapons.

That is why we urge you to do everything in your power to convince the American Administration of the necessity to follow the example of the USSR and to stop any nuclear explosions. That would be a concrete contribution to the cause of peace and freeing mankind from the threat of nuclear catastrophe.

Sincerely,

Deputies of the Supreme Soviet of the USSR:

A. SUBBOTIN,

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Chairman, Section on the issues of Peace and Disarmament, the USSR Parlamentarian Group.
G. ARBATOV,
N. BLOKHIN,
V. ZAGLADIN,
G. ZHUKOV,
G. KORNIYENKO,
S. LOSEV,
E. CHAZOV,
Members of the Section.

U.S. SENATE,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, September 17, 1986

Mr. A. SUBBOTIN,
Chairman, Section on the Issues of Peace and Disarmament, the USSR Parliamentarian Group, Supreme Soviet of the USSR, Moscow, U.S.S.R.

DEAR MR. CHAIRMAN: Thank you for the letter you and your fellow deputies of the Supreme Soviet of the USSR sent to me on September 15, 1986 on the subject of nuclear testing.

As I am sure you are aware, the Senate of the United States has been on record for some time urging the Administration to request Senate approval of ratification, with adequate verification provisions, of the two nuclear testing treaties negotiated between our two nations and signed in 1974 and 1976. In addition, after this first step, the Senate strongly encouraged further negotiations aimed at a comprehensive and verifiable nuclear testing regime which would be subject to adequate controls and provisions consistent with the national security of both our nations.

The question of nuclear testing agreements should be discussed and determined at the Geneva negotiations. American negotiators are fully empowered to engage in this question, as well as the range of other matters relating to arms control. The recent give-and-take between President Reagan and General Secretary Gorbachev has been vigorous and wide-ranging, and needs to be seized upon in Geneva in order to make the most productive preparations possible for substantial achievements on arms control at any summit meeting.

I have been among the foremost in expressing the hope for another summit, and have urged the Administration to work toward that end. However, this is a two-way street, and the continued holding of Mr. Daniloff is impairing the atmosphere needed to promote a successful summit. As you rightly point out in your letter, the interests of comprehensive arms control, which can be significantly promoted at the summit, are far more important than such episodes as the Daniloff case, which is now getting in the way of progress. This has caused a cool and cloudy atmosphere in our relationship at precisely the wrong time.

As I have mentioned in a recent letter I sent to Ambassador Anatoly Dobrynin, the unconditional release of Mr. Daniloff would be a major gesture by the Soviet leadership that would go a long way toward a successful summit meeting.

Sincerely,

ROBERT C. BYRD.

THE PRESIDENT'S DRUG ABUSE INITIATIVES

Mr. BYRD. Mr. President, early this week I received the package of the President's drug abuse initiatives. That package, besides containing a copy of the Executive order on drug testing of Federal employees, which is effective immediately, contains only broad outlines of the legislative proposals the President intends to make.

Mr. President, I support targeted drug testing. I emphatically believe that those in very sensitive positions concerning national security issues, and certainly those who hold in their hands the health and safety of others, such as air traffic controllers and pilots, should be subject to testing, and tested as frequently as appears productive.

But, I am concerned about the broad reach of the Executive order. There is no evidence to suggest that it is necessary to test up to half of current Federal employees. Yet the order apparently calls for that. It seems to me to be an unnecessary and nonproductive infringement of personal privacy.

Concerning the statutory proposals, I would very much like to be able to address the President's proposals in detail, and I intend to do so when actual legislative language is available. I understand that the White House says this could happen, perhaps, by the end of this week.

In the meantime, I congratulate the President for adding his voice and his very important leadership to this issue. The President's recommendations appear to be comprehensive, but on cursory purusal of the very general descriptions now available, they appear to lack some of the components we believe are vital in a comprehensive and effective proposal. These components, which are contained in S. 2798, the bill we introduced on September 9, include, among others:

A mechanism to provide coordinated leadership of all Federal drug abuse control efforts;

Funding for correctional institutions, so that drug criminals can be jailed and not be released due to lack of space;

Increased funding for treatment programs, earmarked for substance abuse efforts; and

Funding to assist State and local agencies in their law enforcement efforts.

Also, the materials on the President's proposal sent to us earlier are unclear as to what will be new Federal efforts, as opposed to only a restatement of current Federal efforts.

In short, I will reserve my judgment on the President's proposal until I see the actual language. But, again, I would like to congratulate him for adding his voice to our dialog in the Congress.

A strong drug control bill has passed the House. We introduced a similar proposal last week, cosponsored by the entire Democratic Conference. And now we have a set of conceptual proposals from the administration.

I hope these expressions of support and interest mean that action on drug legislation will occur soon.

What remains is for both sides of the aisle here in the Senate to work together to craft the best, most effective proposal. I offer my aid and assistance to all Senators in this respect.

As I have said emphatically here on this floor, this is not a partisan issue. We want the same thing—the best legislation possible. We want it, and the American people demand it of us.

I hope the distinguished majority leader will entertain my proposal favorably, and that he will move expeditiously to schedule action in the immediate future on the proposals now awaiting action so a bill can be sent to the White House before we adjourn the 99th Congress sine die—which we hope to do on October 3.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 9:30 a.m. with statements therein limited to 5 minutes each.

The Senator from Connecticut is recognized.

THE WAR ON DRUGS

Mr. WEICKER. Mr. President, I want to commend the distinguished minority leader for his remarks about the war on drugs. The only difference between the minority leader and myself is that he is much more diplomatic than I am. My comments will not be so kind as to my understanding of the President's proposal. The President's proposal states, and I now quote, that:

> Increased resources called for in the President's Drug-Free America Act of 1986 and budget proposals will bring nearly $900 million of increased resources to the Federal effort to fight drug abuse.

That sounds very good until you come to the bottom of the page and you read

> consistent with the President's commitment to fiscal responsibility these budget proposals redirect resources within the existing Federal budget.

Mr. President, as I understand it, when we talk in terms of the real war we do not take from the Marines and give to the Navy, and we do not take from the Air Force and give to the Army. We go ahead and either raise taxes in terms of new money to finance the real war, or indeed we cut

back on these nice-to-have items in domestic times of peace and redirect these resources toward war.

Where is this money going to come from for the war on drugs? Where are these moneys going to come from in terms of being redirected from other resources? Let me tell you what my understanding is.

First of all, we have confirmed this morning both from OMB and the White House there will be no new money for the war on drugs. Therefore, it is my understanding that these are some of the potential proposals for funding the war on drugs; $100 million will be cut from student aid programs, college work study and supplemental education opportunity grants. The funds will instead be given to local school districts for drug education and law enforcement coordination.

The $233 million will be directed to the National Institute on Drug Abuse for treatment-prevention research. Where will the $233 million come from? The $75 million will come from what the administration calls the primary care block grant program. This cut could come from the community health centers, those centers which serve the poor that have no medical attention, and from the migrant health centers where people have no medical care.

The prevention block grant will be cut $2 million. This program provides money to the States for preventive health activities to reduce morbidity and mortality. The National Institutes of Health will be cut by $88 million. Those are cuts, in other words, that would reduce the number of new research grants in cancer, in heart disease, in Alzheimer's, in AIDS, and so on down the list.

The National Institute of Mental Health will be cut $6 million. This is the Institute that researches the causes, diagnoses, treatment, and prevention of mental illness. The Institute particularly focuses on schizophrenia, teenage suicide, and the mental health of the elderly. The $1.3 million will be taken from the National Institute on Alcohol Abuse and Alcoholism. And States will be allowed to use the $490 million alcohol, drug abuse and mental health block grant for increased drug abuse activities without adding additional funds. What that means is money for alcoholism and for mental health will give way to money for drug abuse.

What this type of a proposal would mean is not a war on drugs. This then becomes a war on the mentally ill. It becomes a war on the alcoholic. It becomes a war on the poor. It becomes a war on pregnant women insofar as infant mortality and low birth rate babies are concerned. This is what the war becomes.

Mr. President, I would hope with whatever passes this body we would say to ourselves that indeed drug abuse is a priority, and we have to pay for it just as we have to pay for any other real war. This is a real war and we should not redirect resources to pay for it, what a skillful term that is, to redirect resources. The administration's proposal will wreak havoc with those that already have been left at the door of our priorities in this Nation. I will have no part of that.

I do not even intend to address the constitutional problems raised in the President's package. That is something for others. But I know one thing. Any time that I go to war, I do not want to have media opportunities. You just give me the bullets. Otherwise, there is not much that can be done. I would hope that drug abuse would be a priority but not at the expense of others who need our special care. And that in effect is what is being proposed.

I used to have people sometimes during my speeches ask me why I am a Republican, and why don't you join the Democratic party? I will tell you one of the reasons why. I always used to look at the other side of the aisle here as being the greatest exponents of something for nothing. That is why I did not become a Democrat. But I am going to tell you. You fellows on the other side of the aisle are in the minor leagues compared to what has been going on here in the last couple of years. You do not get something for nothing. We do not get a war on drugs unless we pay for a war on drugs. We do not take it out of the misfortunes of other Americans.

Mr. President, when the legislation comes before the Senate I will support it vigorously. But only as long as I understand the true sacrifice that is going to be made in terms of our resources, our financial resources, that will be directed toward the war on drugs, so that we win the war—that we win the war as we will win the others for those that look to this Nation for help and indeed for life.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, recently George Will——

Mr. BYRD. Mr. President, will the Senator yield to me just briefly? I ask unanimous consent that the time I take be taken from the time I reserved.

The PRESIDING OFFICER. The Democratic leader is recognized from the time he reserved.

Mr. BYRD. I apologize to the distinguished Senator.

I wanted to rise to compliment the distinguished Senator from Connecticut. He is being very realistic, and not just as a result of Mr. Reagan's proposal, but as to any issue that he addresses. He is being very realistic. He is always realistic, but if we are going to have a war on drugs, that is what we are going to have. That is what the people demand. He is quite right. We ought not to take that money out of other programs that are just as necessary and affect people just as severely. I congratulate him and thank him.

Whatever time I have remaining I yield to the distinguished Senator from Wisconsin.

Mr. WEICKER. I thank my friend.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

YES GEORGE WILL—ARMS CONTROL WORKS

Mr. PROXMIRE. Mr. President, recently George Will, the widely admired columnist, challenged a Member of Congress on the Brinkley Sunday morning television show to name one arms control treaty that had helped bring a more peaceful and secure world. It was a welcome challenge to all of us who so vigorously advocate arms control. Have we arms control advocates been wasting the Nation's moral energy in pushing so constantly for arms control? Have we been pursuing an empty fantasy? Even worse, have those of us in the Congress who have a major responsibility for the country's security neglected the military security of our country in this super dangerous nuclear age to chase an impossible dream through futile attempts to win international cooperation?

The answers, Mr. President, is that a review of arms control treaties reveals first that arms control agreements have certainly made a significant overall contribution to world peace. Without them the nuclear world would be an even more threatening place than it is. Second, arms control has a long way to go. To date it constitutes more than one step in a journey of 1,000 miles but not much more.

First, consider the arms control treaties that have successfully excluded nuclear weapons from certain sections of the world.

Here they are: The Antarctic Treaty of 1961 has kept military weapons out of the Antaractic. This treaty is easy to deride as great for penguins but it represents the first attempt to establish a nuclear-free zone. It has worked—it established a useful precedent. Then in 1967 came the outer space treaty. Based on the Antarctic Treaty, it bans nuclear weapons and other weapons of mass destruction in orbit or on the Moon. An American or Soviet strategic defense initiative [SDI] or star wars would probably violate it. So far the treaty has been successful. Then there came the 1968 treaty prohibiting nuclear weapons in Latin America. This further advanced the nuclear-free zone concept. It also provides an international treaty basis

for United States resistance to the deployment of Soviet nuclear weapons in threatening our country in this hemisphere. And there is the 1972 Seabed Treaty. This treaty stops the deployment of nuclear weapons on the ocean floor. In doing so it inhibits a potential threat to the United States as the Nation's preeminent seapower. In aggregate this series of nuclear-free zone treaties have made the Earth at least marginally safer from nuclear war.

The Limited Test Ban Treaty of 1963 confined nuclear weapons explosions to the underground. In doing so it did nothing to stop the technical nuclear weapons arms race. But it did help to reduce the serious threat to the environment that flowed from massive nuclear explosions in the atmosphere.

In 1972 the United States and the U.S.S.R. signed and ratified the Anti-Ballistic Missile Treaty. That treaty sharply limited the defensive arms race. It went a long way toward establishing the credibility of the nuclear deterrent of both superpowers. For those of us who believe that the superpower nuclear peace that has persisted throughout the nuclear age has been based overwhelmingly on the devastating retaliatory power of both the United States and the U.S.S.R., and this treaty has made a vital contribution to a peaceful world. The Strategic Arms Limitation Treaty was signed in 1979. The United States has not ratified it. It expired on December 31, 1985. But it was kept in effect by the President until May 1986, and it may be revived. According to the CIA and the United States Joint Chiefs, that treaty succeeded in significantly limiting a major Soviet offensive nuclear arms buildup. It may well have been violated by the U.S.S.R. but the alleged violations, if verified, have little military significance.

The two arms control treaties that have had the most certain effect in reducing the threat of nuclear war have been the "hotline" agreement of 1963 and the Nonproliferation Treaty of 1970. The hotline agreement provides for direct communication in times of crisis between the Soviet leader with his finger on the nuclear button and the President of the United States. Here is one arms control agreement that could obviously make the differences between life on this planet and death.

Finally there is the Nonproliferation Treaty of 1970. A recent study of that treaty by the Carnegie Endowment for International Peace documented the continuing progress this arms control treaty is making in slowing the spread of nuclear weapons. It is true that seven or eight real or potential nuclear weapon nations have refused to sign the treaty or in one case have signed it but refuse to abide by it. But some 160 nations have signed it. A number of these nations operate nuclear energy facilities that produce processed uranium or plutonium of weapons grade. Most of these nations have recently agreed to unannounced on-the-spot international inspection to assure that the processed material is not being diverted to the fabrication of nuclear weapons.

Mr. President, it seems clear to this Senator that the answer to George Will's challenging question is that there are not one but a series of arms control agreements that have significantly advanced the prospects of world peace.

□ 0920

MYTH: CONGRESS IS UNDERCUTTING THE PRESIDENT ON ARMS CONTROL

Mr. PROXMIRE. Mr. President, the myth of the day is that the recent weapons funding cuts and arms control initiatives the House and Senate have enacted on their Defense authorization bills will undercut the administration's negotiating position at Geneva.

Let us take a look at what the House and Senate have done recently on their fiscal year 1987 DOD authorization bills:

The House, by a strong bipartisan majority voted to reduce funding for the strategic defense initiative to $3.1 billion in fiscal year 1987. The Senate came within one vote of reducing it to $3.2 billion and adopted report language calling for a redirection of the President's grandiose vision of an astrodome defense.

The House approved a 1-year moratorium on testing antisatellite weapons and a 1-year delay in the production of new chemical weapons.

The House voted to ban nuclear testing for 1 year if the Soviets reciprocate, while the Senate approved a nonbinding resolution calling for a comprehensive test ban treaty.

The House passed a measure requiring the President to adhere to SALT II, while the Senate bill contains nonbinding language urging the administration to stay within SALT's limits.

Now, according to the administration these actions undercut our negotiations in Geneva. According to Kenneth Adelman, the Director of the Arms Control and Disarmament Agency, Congress only demonstrates a "lack of will" by passing these amendments.

Is that the case, Mr. President?

No, it is not. Nothing could be further from the truth.

The fact is, the funding cuts and the arms control initiatives we have approved show a strong-willed commitment by the Congress toward a realistic arms control agreement with the Soviets that best serves the national interests of the United States.

The fact is, a $3.1 billion funding level for SDI is more than enough of a bargaining chip at Geneva. Any more would only demonstrate to the Soviets our ability to waste money.

The fact is, a mutual moratorium on antisatellite testing is in our national security interest because an arms race in Asat's puts more U.S. space assets at risk. A delay in producing binary nerve gas makes good defense sense at this point because of the problems we have been having with this weapon.

The fact is, a comprehensive test ban on both sides would be one of the most important steps we could take toward halting the superpower arms race and toward aiding our nonproliferation efforts.

And the fact is, it simply is in our military interest, as the Joint Chiefs of Staff have counseled in the past, to stay within the numerical limits of the SALT II Treaty.

In other words, Congress has shown the administration the path to arms control. It has sent the White House a message loud and clear on what kind of arms control treaty it wants—a treaty that bans weapons in space, a treaty that halts nuclear testing and the further production of chemical weapons, and a treaty that builds on the limits set by SALT II instead of skirting those limits.

The administration believes it has this problem with Congress and its arms control initiatives. That is not the case.

Congress has got a problem with this administration and its lack of initiative on arms control.

This is not a case of Congress undercutting the President.

It is a case of the President so far undercutting what the Congress wants in the way of arms control.

Mr. President, I yield the floor.

Mrs. HAWKINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

THE DRUG PROBLEM

Mrs. HAWKINS. Mr. President, there is a radio advertisement that plays in Washington from time to time promoting a certain national bank. It promotes this particular bank as "the most important bank in the most important city in the world." I do not know about the first half of the ad, but the second half is absolutely right—as the capital of the most powerful, most prosperous democracy on the face of the Earth, Washington is without question a city of great power and prestige. But side by side with power and prestige should go obligation and responsibility. Washington is no exception.

The attention of the Nation and the world is focused on this city. Everyone

is watching to see if we are serious about dealing with the problem of illegal drug use and drug trafficking, including the diplomatic corps, the eyes and ears of nations around the world. Yet, while tough words on drugs flow from the White House and the Congress, a few blocks away pushers sell PCP, cocaine and just about every other illegal substance you can imagine. While our words may be tough—the pushers and users on the streets mock our efforts.

We have passed bills cutting off foreign aid for countries that do not get serious about eradicating illegal drug crops. We twist the arms of wealthy countries urging them to give generously to international organizations dedicated to fighting the war on drugs.

We pressure countries to sign extradition treaties, mutual legal assistance treaties, Coast Guard boarding treaties, bank secrecy treaties and dozens of other types of international agreements aimed at tightening an international noose around the neck of the drug traffickers. What must these countries think when we try to enlist their support in the war on drugs and their diplomats cable home that Washington and the surrounding area are a haven for pushers and users?

Capt. John F. Miller, captain of a police department in the Washington suburbs recently said, "It's like an ocean—everywhere we turn we see cocaine." The statistics bear out this grim assessment. Between 1981 and last year the number of cocaine-related emergency room episodes has increased almost five times! During that period the number of cocaine deaths rose twelvefold. It was five annually. Now it is 61. In Washington as in most places where the drug culture thrives, violence is a way of life. Shootings, robberies, and even murders at many of the 17 cocaine street markets in Washington are a part of everyday ritual for the drug pusher and user.

The tragic cocaine death of Len Bias, a college basketball star from the Washington area, gained national attention several months ago and graphically illustrated the danger of cocaine use—but it also is one more sign that drug abuse in this town is out of control.

We can win the war on drugs if we can dry up demand for the drugs, eliminate the illegal crops at their source and throw the traffickers into jail. A tall order, no question—but so long as Washington, the Nation's Capital, is a major center of illegal drug use, we cripple our international, and even our domestic, drug control efforts. After all if we cannot clean up drugs in the Nation's Capital, how can we expect other cities or other countries to do so.

The city of Washington, DC, needs to set a firm and straight course against the use and trafficking of illegal drugs. It needs to launch a drug testing program for city employees, and a school drug testing program, as well. It needs to toughen city ordinances and penalties for illegal drug use; to shift economic resources to the police and other agencies to go after the pushers; and to institute a constructive "just say no" drug education program throughout the city, but especially in the schools. These and other tough antidrug steps would not only make this city a more pleasant place to live, but also make it a model for the rest of the Nation.

Mr. President, I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

TAX REFORM: VOICES FROM THE HEARTLAND

Mr. LEVIN. Mr. President, today it is expected that the conference committee on the tax reform bill will file its report. Undoubtedly, some will point to this as one of the final stages in the triumphant battle of the public interest against the special interests.

That is why I think it is an appropriate time to have the public speak for itself. I would like to take a few minutes of the Senate's time to read some of the letters from Michigan which I have received. Certainly, not all of it is in the vein of skepticism or opposition. But, according to my staff, at this point the mail in favor of this bill is a "dribble." The mail skeptical about it or against it is a "flood."

Mr. President, these letters are not written on formal letterhead. They are not technically precise in a couple of areas. But, then, again, these are not Washington lobbyists talking. They are voices from the heartland.

I will read these three letters at this time.

No. 1

I would like to voice my opposition to the new so called tax reform law and here are some of the reasons:

1. When President Reagan started talking tax reform, one of the key proposals was simpler tax forms. Surely the new law will make these forms more complicated—not simpler.

2. I think the elderly people are really getting jabbed by taking away the extra exemption. The increase in the amount of the standard deduction will not take care of taking away the extra exemption.

3. I am retired and my wife and I live comfortably but not lavish. We have a comfortable home purchased with an FHA mortgage many years ago. Couple years ago the law was passed making us pay one-half tax on social security benefits because total income is more than 32,000.00 due to, or rather including some municipal bonds. This was unfair because I purchased what municipals I have because they were supposedly tax free.

Now, the new tax reform law is taking away more deductions such as sales tax and increasing the standard deductions (which will not cover the deductions being taken away). I believe the tax reform people are kidding themselves and members of Congress when they say charitable organizations will not be effected. I predict they will be effected a great deal.

4. I am over 65 years of age and in a taxable income bracket of 25M to 30M dollars. As nearly as I can tell, my tax is going to increase 15 to 20 percent. I don't think this is fair.

5. Last but not least, I have talked to many of my friends whom I would class in middle income category. I have yet to find one person who is in favor of this tax reform law in it's present form. I am happy to see 6 million poor people removed from tax rolls, but don't penalize just one section of taxpayers of which I believe I am one.

No. 2

I have been following the recent proposals for income tax reform with great interest. I find what I am reading to be very alarming.

My wife and I had a combined income in the low 30's last year (gross). Loss of deductions for interest on our debts (car, credit cards, etc.), sales tax, state and local taxes, income tax preparation fee and I don't know what else since the final bill has not yet passed, will have major economic implications to our family. Loss of these deductions will move us into the 28 percent tax bracket. Additionally we will be paying taxes on our former deductions.

At the same time, much to my chagrin, I read that this "more equitable" tax system will move those who are well off in to this same tax bracket, some of whom stand to receive up to a 22 percent reduction. Some of these people stand to receive a tax reduction in excess of my family's gross income.

We have been forced to get by with less each year for the last ten years. We have been able to buy only one new car in the last ten years, no vacations in the last 5 years. Seldom do we go out to dinner or to the movies and the list goes on. Each year we must cut out something else. Each year the struggle grows more difficult. You and your fellow Congressmen must be aware of the implications of this bill for middleclass America.

No. 3

In attempting to get a handle on the proposed tax bill a number of issues come to the forefront. We would like to bring these to your attention as we feel they are substantial and will have a significant impact upon our country.

First, what we like about the proposed tax reform:

(1) The removal of many poor individuals and families from the tax rolls. This is a much needed reform to assist those already struggling to survive.

(2) The elimination of many(?) of the so-called "passive" tax shelters, that allowed large tax savings with little or no risk, far beyond the initial investment.

(3) A minimum tax for corporations. This should eliminate the untenable situation where most families, including us would pay more federal income taxes than large corporations with multi-million dollar profits; many of who were defense contractors making their profits from our tax dollars!

We see the above as major, positive developments; however, we have many concerns with the proposed tax bill and its overall impact as it emerged from the joint committee.

(1) The whole process has been rushed through Congress, and at times secretively, allowing little time for reflection or serious debate. In the haste to put together this legislation many of its ramifications have been seriously overlooked. A bill as radical as this one deserves and needs more attention.

(2) Most people (most thinking people!) view the increasingly persistent deficit on a major concern facing our country today, if not the foremost concern. Yet this proposed bill does nothing to address this problem. It seems to us that tax reform would present us with an excellent opportunity to begin to face and correct this serious issue. What a shame!

(3) The elimination of nearly all of the progressivity of our tax code strikes us as most unfair. Can you explain to us, and others, what's fair, or reformed, when we with an annual income of approximately $60,000 will be paying the same Federal tax rate as families or individuals earning millions or tens of millions of dollars annually? (Granted a miniscule difference in personal exemptions.) This is reform? Progressivity is one of the most fair and rational components of our present code. We cannot understand the drastic change.

(4) The elimination of the two income adjustment flies in the face of current demographic trends. Given equal incomes the two earner household has obvious and markedly greater expenses than the one earner household. This issue is not addressed in the proposed bill. It took years for its establishment in our present code.

(5) With our annual deficit, huge national debt, and abysmal savings rate the elimination of the tax savings of IRA's for many households doesn't add up. We need to encourage long term savings in our country, not decrease our capacity to do so.

In sum we think the proposed tax bill has many harmful aspects and deserves more careful and open examination. While it does contain attractive components we need to consider all the possible ramifications. This bill represents a radical change in our tax code and to pass it into law without more thoughtful debate would be irresponsible and we think harmful.

Thank you for your consideration on this matter.

COUNTERTERRORIST FORCES

Mr. BENTSEN. Mr. President, once again we have had an airplane hijacking, and once again some of our fellow citizens have been harmed by terrorists who seem to have no geographical limitations. The recent hijacking of Pan American flight 073 in Karachi, Pakistan, left 2 Americans dead and 17 others wounded when terrorists opened fire with automatic rifles and threw hand grenades into the mass of passengers huddled together in the aisles.

I certainly do not blame the Pakistani authorities for these casualties; they did all that could reasonably have been done once the plane was seized. The terrorists' decision to open fire apparently had nothing to do with the fact that Pakistani commandos had surrounded the plane. Indeed, there is no indication that the terrorists even knew that the commandos were anywhere near the aircraft at the time.

No, in this particular incident, other than to have had better security, which may never be good enough, there may not have been anything that anyone on the outside could have done to prevent the ultimate tragedy of death and destruction. But there may be a lesson that we can learn from this event—a lesson that may help us when next we are involved in a similar terrorist hijacking.

Sadly, I say "when," rather than "if," because I am convinced that terrorism of this sort is here to stay, and we had better be prepared to meet it.

I am limited in what I can say about this topic here in this Chamber, because much of what we know about our national ability to respond to terrorism is highly classified.

I believe, though, that sometimes the decision to retain the cloak of security classification about certain activities which are commonly discussed by the press or by unnamed administration spokesmen acts only to inhibit those of us on Intelligence or Armed Services, without serving any true national security purpose at all. Too much of this material has been a part of the public domain for too long for those of us here in this Chamber to pretend that it does not exist.

It should be no surprise to anyone that the United States has a counterterrorists capability within its military forces. Any reasonably well-read citizens would know that following the disastrous 1980 attempt to rescue the hostages in Iran, military planners took a hard look at our capabilities in the counterterrorist area and found them sadly lacking.

Among other things, one result was the creation of a command center for what are called "special operations" and the dedication of specially trained troops to serve as the basis for an elite counterterrorist force.

We have such forces now, and I have been to their headquarters and training facility, and watched them as they demonstrated their abilities. They are good. There is no doubt about it.

They display a high degree of professionalism and competence and they have the specialized training needed for the unique mission of rescuing hostages and taking on a terrorist group successfully. The problem is, we have to be able to get our counterterrorist forces to the scene of the problem very quickly—and that is where we fall short.

When this recent hijacking was going on in Karachi, I doubt that there were very many knowledgeable people who did not assume that our men were on their way. An unidentified administration source later confirmed this speculation, being quoted in the New York Times to the effect that Delta Force was dispatched and received permission from Pakistani authorities to land in Karachi, but did not arrive before the tragic termination of the incident.

During this past year, I have spoken several times with the commander of our special operations forces and suggested that some portion of his men ought to be stationed overseas, closer to likely trouble spots. Following the Department of Defense line, he has consistently resisted this idea, pleading that the entire unit needs to remain together at one location in this country for training purposes.

I made this same suggestion to Adm. J.L. Holloway III, Executive Director of the Vice President's Task Force on Combating Terrorism. Subsequently, the task force recommended that consideration be given to stationing part of our counterterrorist forces overseas. But it has not been done.

I am not prepared to say that the hijacking in Karachi would have turned our differently if our special operations forces had been able to reach Pakistan within a few hours.

I do know, however, that even had they arrived before the incident was over, it would have been too much to expect even highly-trained soldiers to fly 16 or more hours to some location half-way around the globe and then be able to operate at peak efficiency. Any of us who have suffered from "jet-lag" can testify to that. And it is a certainty that our special troops will not be able to help resolve a hijacking if they are still in the air when it ends.

Moreover, the first few hours of any hijacking or terrorist situation are most critical. No matter how well prepared the terrorists might be, no matter how much planning they have done, there is always a certain amount of confusion on their part in the beginning. Within a relatively short period of time, though, they consolidate their position and perhaps bring in reinforcements and perhaps even additional weapons.

If it is an airplane hijacking, they might attempt to have the plane fly to another location. The point is, all of this takes time on the part of the terrorists, time which we need to deny them. If we can strike before they have had an opportunity to do these things, before they can consolidate their position, we have a much better chance of bringing the incident to a close with a minimal loss of innocent lives.

Having seen the rigorous training that our counterterrorist forces undergo, I can understand way the commander wants them to keep their skills continually honed through constant practice. Small arms marksmanship is indeed a perishable skill. I am not persuaded, however, that the United States is the only place these forces can practice their shooting. Nei-

ther do I believe that a decision has to be made to permanently station one particular part of these forces overseas. Such positioning can be done on a rotating basis, with troop substitutions made every few months.

In short, while I do not see any insurmountable problems with pre-positioning of such forces, I see considerable benefits—benefits that could wind up saving American lives.

If there are problems with our allies, I feel certain that every civilized nation is beginning to understand the global dimensions of the problem of terrorism and that if they are approached in the proper fashion, there will be opportunities for stationing some of our special troops overseas. There certainly does not seem to be any difficulty in getting our NATO allies to accept a quarter million regular troops on their soil.

No, I believe this argument against forward deployment of our counterterrorist forces is nothing but a smokescreen, used to justify the preconceived ideas of certain officials of the Departments of Defense and State. And this smokescreen has to be pierced.

Today, I am extending both a challenge and a warning to those who resist what I—and no doubt others in this Chamber—believe is necessary and proper.

We must act to insure that our troops are in a position to influence the situation when the next hijacking or other terrorist confrontation occurs.

DOD or State Department officials should be on notice: If they do not take the steps necessary to pre-position some of our counterterrorist forces overseas, I will work with others in the Senate and will introduce legislation to bring this about. I have great confidence in the members of our special operations forces.

I do not want to see them hamstrung any longer, nor to see American lives needlessly jeopardized through our inability to reach the scene of the hijacking within a reasonable time, with troops that are rested and ready to go. Stationing some of our counterterrorist forces overseas will contribute to the overall effectiveness of our fight against terrorism. It is a step that needs to be taken now.

IN PRAISE OF ANTONIN SCALIA

Mr. D'AMATO. Mr. President, this body has just unanimously voted to confirm Antonin Scalia as Justice of the Supreme Court of the United States: I want to add my voice to that deservedly thunderous vote of approval.

I realize that many of my colleagues might conclude that this is simply a case of ALFONSE D'AMATO sticking up for a fellow Italian American, but I can assure them that my praise and motives go much further and deeper than that. While we are on that subject, however, please permit me to express a little ethnic pride. About 2 months ago, we had a celebration in my home, the State of New York, for the birthday of our Statue of Liberty. For millions of immigrants, including my grandparents the Lady was the first thing they saw in America, and she was a symbol of hope and opportunity. It is only fitting, therefore, and it fills me with great pride that this anniversary year of the Statue of Liberty would also see the confirmation of the first Italian American to become Justice of the Supreme Court of the United States.

Mr. President, our unanimous approval of Justice Scalia is also a tribute to a tremendously accomplished individual. Antonin Scalia is a lawyer and scholar of impeccable credentials, and just as important, he is a man of dedication to and love for his family. I think one of the important reasons that we in Government are subject to a higher degree of scrutiny than private citizens is the just expectation that an example be set, an example for all of us but especially for our children. Many of America's most pressing problems, notably the scourge of drugs, will be solved not so much by passing laws as by having men of moral character and integrity like Antonin Scalia in the highest positions of our Government.

Finally, Mr. President, what is most important about the confirmation which Justice Scalia has successfully undergone is what it says about our country, which is something that I think we usually take for granted. It says that the United States is an honest and open society, where everyone is free to speak out and where everyone is free to achieve what they deserve. We all know here in the Senate that the confirmation process is grueling not only on the nominee but on those of us who must pass judgment. It seems clear, however, that giving everyone the chance to express his or her view is the only way we can get to the truth. What strikes me on this occasion is the great contrast between our country and the Soviet Union, where we have recently seen the literally deadly cover up at Chernobyl and the outrageous duplicity of framing and arresting an innocent private American citizen, Nicholas Daniloff.

All in all, Mr. President, I think we can be proud of ourselves on this occasion, the confirmation of Justice Antonin Scalia is truly an example of our Government at its best, because we have found the right man for a very important job. We all join in wishing Justice Scalia a long and successful tenure on the Supreme Court.

THE 39TH ANNIVERSARY OF THE U.S. AIR FORCE

Mr. ANDREWS. Mr. President, throughout the history of mankind there have been few innovations to have had a more profound effect on society than manned flight. Humans in the 20th century have experienced the "incredible shrinking world" as a result largely of our increased ability to travel greater distances in shorter periods of time. Man's mastery of flight has also affected another longtime condition: warfare. However, military air power has excelled in a new dimension—the ability to deter war.

Ever since Lenardo da Vinci drew the first plans for a flying machine, aeronauts used balloons for observation during the Civil War and the Wright brothers made history at Kitty Hawk, the use of the skies has changed the way in which we protect our borders and defend freedom in an increasingly troubled world. However, it would take some time before the War Department would begin to fully utilize Orville and Wilbur Wright's mammoth accomplishment. In 1907 an aeronautical division was created in the Signal Corps, but it was another 2 years before they purchased their first airplane from the Wrights.

The development of a fully realized air branch of the Armed Forces was halting, moving at a "stop and start" pace. Separating from the Signal Corps in 1918, they became the Air Service by law in 1920, then the Air Corps in 1926, only to see the creation of the Army Air Forces in 1941. Throughout this period and beyond, the U.S. Government was witnessing the emergence of a new force in military strategy. Such obvious benefits as entering enemy territory in a matter of hours, when ground forces would have taken days or months, emphasized that in order to control the ground one must first control the air.

In 1947, the U.S. Air Force was created. Growing from the aviation arm which began World War I with only 35 pilots and 55 mechanics, the USAF concluded 1985 with 603,653 Active Duty men and women, over 200,000 Reserve members and over 250,000 civilian employees—not to mention over 7,000 active duty aircraft and over 2,000 planes in reserve. This amazing branch of our defense structure is capable of defending, maneuvering offensively, transporting and providing rescue and search aid when needed.

For example, it's frightening to contemplate the consequences of the Russian blockade of West Berlin after World War II without the Berlin airlift. During the 462 days of Operation Vittles, over 277,000 flights were completed with aircraft landing at Tempelhof airport on an average of every 3½ minutes delivering over 2,325,000

short tons of supplies. This was a truly astonishing feat.

Today, the Air Force is capable of this and much more. We are proud of its ability to deter war, provide intelligence, assist in weather observation and drug interdiction, and, like our other fine branches of the service, preserve and protect our freedoms around the world.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

RECESS UNTIL 10:30 A.M.

The PRESIDING OFFICER. Under the previous order, the hour of 9:30 having arrived, the Senate will now stand in recess until the hour of 10:30 a.m.

Thereupon, at 9:30 a.m., the Senate recessed until 10:30 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. PRESSLER).

□ 1030

OMNIBUS BUDGET RECONCILIATION ACT, 1987

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 2706) to provide for reconciliation pursuant to section 2 of the concurrent resolution on the budget for fiscal year 1987 (S. Con. Res. 120, Ninety-ninth Congress).

The Senate resumed consideration of the bill.

(Remarks of Mr. BENTSEN at this point relating to terrorism are printed earlier in the RECORD.)

□ 1040

The PRESIDING OFFICER. Does the Senator suggest the absence of a quorum?

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is the time to be equally divided?

Mr. BENTSEN. I have no objection.

The PRESIDING OFFICER. Without objection, the time consumed in the rollcall will be equally divided.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1050

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The minority leader is recognized for 1 minute.

ADDRESS OF HER EXCELLENCY CORAZON C. AQUINO, PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES TO THE JOINT MEETING OF THE UNITED STATES CONGRESS

Mr. BYRD. Mr. President, both Houses have jointly sat and listened to an excellent address, most eloquent address, a very courageous address, by Her Excellency Corazon C. Aquino, President of the Republic of the Philippines.

Mr. President, I ask unanimous consent that this great speech by President Aquino delivered to the joint meeting of the U.S. Congress be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDRESS OF HER EXCELLENCY CORAZON C. AQUINO, PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES TO THE JOINT MEETING OF THE UNITED STATES CONGRESS

Mr. Speaker, Mr. President pro tempore, three years ago, I left America in grief to bury my husband, Ninoy Aquino, I thought I had left it also to lay to rest his restless dream of Philippine freedom. Today, I have returned as the President of a free people.

In burying Ninoy, A whole nation honored him. By that brave and selfless act of giving honor, a nation in shame recovered its own. A country that had lost faith in its future found it in a faithless and brazen act of murder. So in giving, we receive, in losing we find; and out of defeat, we snatched our victory.

For the nation, Ninoy became the pleasing sacrifice that answered their prayers for freedom. For myself and our children, Ninoy was a loving husband and father. His loss, three time in our lives, was always a deep and painful one.

Fourteen years ago this month was the first time we lost him. A President turned dictator, and traitor to his oath, suspended the Constitution and shut down the Congress that was much like this one before which I am honored to speak. He detained my husband along with thousands of other—Senators, publishers and anyone who had spoken up for the democracy as its end drew near. But for Ninoy, a long and cruel ordeal was reserved. The dictator already knew that Ninoy was not a body merely to be imprisoned but a spirit he must break. For even as the dictatorship demolished one by one the institutions of democracy—the press, the Congress, the independence of the judiciary, the protection of the bill of rights—Ninoy kept their spirit alive in himself.

The Government sought to break him by indignities and terror. They locked him up in a tiny, nearly airless cell in a military camp in the north. They stripped him naked and held the threat of sudden midnight execution over his head. Ninoy held up manfully under all of it. I barely did as well. For 43 days, the authorities would not tell me what had happend to him. This was the first time my children and I felt we had lost him.

When that didn't work, they put him on trial for subversion, murder, and a host of other crimes before a military commission. Ninoy challenged its authority and went on a fast. If he survived it, then, he felt, God intended him for another fate. We had lost him again. For nothing would hold him back from his determination to see his fast through to the end. He stopped only when it dawned on him that the Government would keep his body alive after the fast had destroyed his brain. And so, with barely any life in his body, he called off the fast on the fortieth day. God meant him for other things, he felt. He did not know that an early death would still be his fate, that only the timing was wrong.

At any time during his long ordeal, Ninoy could have made a separate peace with the dictatorship, as so many of his countrymen had done. But the spirit of democracy that inheres in our race and animates this Chamber could not be allowed to die. He held out, in the loneliness of his cell and the frustration of exile, the democratic alternative to the insatiable greed and mindless cruelty of the right and the purging holocaust of the left.

And then, we lost him irrevocably and more painfully than in the past. The news came to us in Boston. It had to be after the 3 happiest years of our lives together. But his death was my country's resurrection in the courage and faith by which alone they could be free again. The dictator had called him a nobody. Two million people threw aside their passivity and fear and escorted him to his grave. And so began the revolution that has brought me to democracy's most famous home, the Congress of the United States.

The task had fallen on my shoulders to continue offering the democratic alternative to our people.

Archibald MacLeish had said that democracy must be defended by arms when it is attacked by arms and by truth when it is attacked by lies. He failed to say how it shall be won.

I held fast to Ninoy's conviction that it must be by the ways of democracy. I held out for participation in the 1984 election the dictatorship called even if I knew it would be rigged. I was warned by the lawyers of the opposition that I ran the grave risk of legitimizing the foregone results of elections that were clearly going to be fraudulent. But I was not fighting for lawyers but for the people in whose intelligence I had implicit faith. By the exercise of democracy, even in a dictatorship, they would be prepared for democracy when it came. And then, also, it was the only way I knew by which we could measure our power even in the terms dictated by the dictatorship.

The people vindicated me in an election shamefully marked by Government thuggery and fraud. The opposition swept the elections, garnering a clear majority of the votes, even if they ended up, thanks to a corrupt Commission on Elections, with barely a third of the seats in Parliament. Now, I knew our power.

Last year, in excess of arrogance, the dictatorship called for its doom in a snap election. The people obliged with over a million signatures, they drafted me to challenge the dictatorship. And I obliged them. The rest is the history that dramatically unfolded on your television screens and across the front pages of your newspapers.

You saw a nation, armed with courage and integrity, stand fast by democracy against threats and corruption. You saw women poll watches break out in tears as armed goons crashed the polling places to steal the bal-

lots, but just the same, they tied themselves to the ballot boxes. You saw a people committed to the ways of democracy that they were prepared to give their lives for its pale imitation. At the end of the day, before another wave of fraud could distort the results, I announced the people's victory.

The distinguished cochairman of the U.S observer team in his report to your President described that victory:

"I was witness to an extraordinary manifestation of democracy on the part of the Filipino people. The ultimate result was the election of Mrs. Corazon C. Aquino as President and Mr. Salvador Laurel as Vice President of the Philippines."

Many of you here today played a part in changing the policy of your country toward us. We Filipinos thank each of you for what you did: For balancing America's strategic interest against human concerns, illuminates the American vision of the world.

When a subservient Parliament announced my opponent's victory, the people turned out in the streets and proclaimed me President. And true to their word, when a handful of military leaders declared themselves against the dictatorship, the people rallied to their protection. Surely, the people take care of their own. It is on that faith and the obligation it entails that I assumed the Presidency.

As I came to power peacefully, so shall I keep it. That is my contract with my people and my commitment to God. He had willed that the blood drawn with the lash shall not, in my country, be paid by blood drawn by the sword but by the tearful joy of reconciliation.

We have swept away absolute power by a limited revolution that respected the life and freedom of every Filipino. Now, we are restoring full constitutional Government. Again, as we restored democracy by the ways of democracy, so are we completing the constitutional structures of our new democracy under a constitution that already gives full respect to the bill of rights. A jealously independent Constitutional Commission is completing its draft which will be submitted later this year to a popular referendum. When it is approved, there will be congressional elections. So within about a year from a peaceful but national upheaval that overturned a dictatorship, we shall have returned to full constitutional Government. Given the polarization and breakdown we inherited, this is no small achievement.

My predecessor set aside democracy to save it from a Communist insurgency that numbered less than 500. Unhampered by respect for human rights, he went at it with hammer and tongs. By the time he fled, that insurgency had grown to more than 16,000. I think there is a lesson here to be learned about trying to stifle a thing with the means by which it grows.

I don't think anybody, in or outside our country, concerned for a democracy and open Philippines, doubts what must be done. Through political initiatives and local reintegration programs, we must seek to bring the insurgents down from the hills, and by economic progress and justice, show them that for which the best intentioned among them fight.

As President, I will not betray the cause of peace by which I came to power. Yet equally, and again no friend of Filipino democracy will challenge this. I will not stand by and allow an insurgent leadership to spurn our offer of peace and kill our young soldiers, and threaten our new freedom.

Yet, I must explore the path of peace to the utmost, for at its end, whatever disappointment I meet there, is the moral basis for laying down the olive branch of peace and taking up the sword of war. Still, should it come to that, I will not waver from the course laid down by your great liberator:

"With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us finish the work we are in, to bind up the nation's wounds, to care for him who shall have borne the battle, and for his widow and for his ophans, to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations."

Like Lincoln, I understand that force may be necessary before mercy. Like Lincoln, I don't relish it. Yet, I will do whatever it takes to defind the integrity and freedom of my country.

Finally, may I turn to that other slavery: Our $26 billion foreign debt. I have said that we shall honor it. Yet must the means by which we shall be able to do be kept from us? Many conditions imposed on the previous Government that stole this debt continue to be imposed on us who never benefited from it. And no assistance or liberality commensurate with the calamity that was visited on us has been extended. Yet ours must have been the cheapest revolution ever. With little help from others, we Filipinos fulfilled the first and most difficult condition of the debt negotiation: The full restoration of democracy and responsible Government. Elsewhere, and in other times of more stringent world economic conditions, Marshall plans and their like were felt to be necessary companions of returning democracy.

When I met with President Reagan yesterday, we began an important dialog about cooperation and the stengthening of the friendship between our two counttries. That meeting was both a confirmation and a new beginning and should lead to positive results in all areas of common concern.

Today, we face the aspirations of a people who had known so much poverty and massive unemployment for the past 14 years and yet offered their lives for the abstraction of democracy. Wherever I went in the campaign, slum area or impoverished village, they came to me with one cry: Democracy! Not food, although they clearly needed it, but democracy not work, although they surely wanted it, but democracy. Not money, for they gave what little they had to my campaign. They didn't expect me to work a miracle that would instantly put food into their mouths, clothes on their back, education in their children, and work that will put dignity in their lives. But I feel the pressing obligation to respond quickly as the leader of a people so deserving of all these things.

We face a Communist insurgency that feeds on economic deterioration, even as we carry a great share of the free world defenses in the Pacific. These are only two of the many burdens my people carry even as they try to build a worthy and enduring house for their new democracy, that may serve as well as a redoubt for freedom in Asia. Yet, no sooner is one stone laid than two are taken away. Half our export earnings, $2 billion out of $4 billion, which was all we could earn in the restrictive markets of the world, went to pay just the interest on a debt whose benefit the Filipino people never received.

Still we fought for honor, and, if only for honor, we shall pay. And yet, should we have to wring the payments from the sweat of our men's faces and sink all the wealth piled up by the bondsman's 250 years of unrequited toil?

Yet to all Americans, as the leader of a proud and free people, I address this question: Has there been a greater test of national commitment to the ideals you hold dear than that my people have gone through? You have spent many lives and much treasure to bring freedom to many lands that were reluctant to receive it. And here you have a people who won it by themselves and need only the help to preserve it.

Three years ago, I said, thank you, America, for the haven from oppression, and the home you gave Ninoy, myself and our children, and for the 3 happiest years of our lives together. Today, I say, join us, America, as we build a new home for democracy, another haven for the oppressed, so it may stand as a shining testament of our two nations' commitment to freedom.

Mr. BYRD. Mr. President, I ask unanimous consent that as to the quorum which I am about to make a point of order with respect to the lack thereof the time charged be equally divided between both sides. But I have not yet made that suggestion.

Mr. President, I shall not suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Illinois is recognized.

SUPPORT OF THE SMALL BUSINESS INNOVATION RESEARCH PROGRAM EXTENSION

Mr. DIXON. Mr. President, I rise today in support of legislation which provides continuation of the Small Business Innovation Research Program through fiscal year 1993.

This program is strongly supported by the small business community, which is confident of its ability to make a major contribution to the Nation's $50 billion research and development effort.

Small businesses constitute 99 percent of all business establishments in this country; employ the majority of our Nation's work force; generate about 45 percent of the gross national product; and are acknowledged as leading innovators.

However, prior to enactment of this act in 1982, small business was virtually shut out from Federal research and development efforts. This statement is supported by facts which reflect that, prior to 1982, small business received only 2.5 to 3 percent of the total Federal research and development budget. Moreover, regretably, that share was steadily declining.

Four years later, it appears that our reliance on the program has been totally justified. There are early indications that the Small Business Innova-

tion Research Program has stopped the steady decline of the percentage of the Federal research and development budget received by small business. Happily, we are beginning to see a reverse to that trend.

This program has served to convince Government procurement officials that small firms can perform effectively in the research and development arena. Their product is not only of high quality but also is equal in every respect to that of those companies who have, traditionally, received these contracts.

Mr. President, I thank you for my time and suggest—or may I yield to the minority leader.

Mr. BYRD. Mr. President, was the distinguished Senator about to make a point of order that a quorum was not present?

Mr. DIXON. I was going to do that.

Mr. BYRD. Mr. President, I ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, the time consumed during the quorum call will be equally divided.

Mr. DIXON. I thank the leader.

Mr. President, I suggest the absence of a quorum under the time limitation agreement.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1140

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. D'AMATO). Without objection, it is so ordered.

OMNIBUS BUDGET RECONCILIATION ACT, 1987

The Senate continued with consideration of the bill (S. 2706).

□ 1150

Mr. CHILES. Mr. President, we are about 36 hours away from a possible vote on a sequester resolution. The only way we can avoid it is to make some additional budget cuts on our own.

The reconciliation bill now before the Senate is our only chance to get around a sequester. But this bill contains just 3.7 billion dollars' worth of savings. That is like trying to deflect a hurricane with a stop sign.

Right now, people from both the House and Senate are trying to work out a package that provides $14 billion to $15 billion or $15.5 billion in cuts.

If we can agree on that package, and if Congress approves it, then we will not have to pass a sequester.

But even with the additional cuts, we have to be very clear on one point. Even that package will not get us down to the Gramm-Rudman-Hollings target of $144 billion for this year. All it will do is get us within hopefully $10 billion of that target. And, under the law, that is one of the loopholes that lets us off the sequester hook.

So, in a sense, the reconciliation bill is the equivalent of punting on third down inside the opponents 10-yard line.

A deficit of under $154 billion means we missed the target by $10 billion. That is $10 billion more we will have to cut next year. That is $10 billion that could become even larger if the economic assumptions prove to be too optimistic. That is $10 billion on top of a deficit that could grow by as much as another $22 billion next year when tax reform produces a revenue shortfall.

Mr. President, most of the spending changes we have talked about are not permanent, structural changes; they are one-shot savings that leave the deficit hole just as deep as last year. Gramm-Rudman-Hollings says next year's deficit should be $108 billion. But at the current rate, I am afraid it will be more like $180 billion. In other words, not one-zero-eight, but one-eight-zero.

The Gramm-Rudman-Hollings law is a 5-year plan. It sets annual targets for cutting the deficit. If we do not do the job this year, and each year thereafter, we are just heaping debt on the generations to follow.

I know the job has not gotten any easier in the year since we passed Gramm-Rudman-Hollings. The law was passed before last year's record trade deficit became this year's record-breaking trade deficit. It was passed before the economy went soft. It was passed before we had tax reform to consider.

But like it or not, that is the way it is.

And that is why I am convinced we need to pass a strong reconciliation package. If we do not pass a much tougher reconciliation, cannot agree on a sequester and go home with $170 billion deficit, I am pretty sure a sizable number of us will stay there.

Mr. President, when the House and Senate met last week on the Temporary Joint Committee on Deficit Reduction, we heard the Director of the Office of Management and Budget say the President would allow no more cuts in military spending. We heard him say the President would tolerate no additional revenues to help in the deficit battle. He said take it all out of domestic spending.

Well, Mr. President, Senator DOMENICI and I offered the Senate that very same offer last spring. I think you will remember how many votes it got. Just 14 votes.

I want to take a minute to point out something to the Senate. This spring, Senator DOMENICI and I proposed a budget and the Senate passed it 70 to 25. It included additional revenues to cut the deficit. That was a strong bipartisan vote including a majority of Republicans and a majority of Democrats overwhelmingly supported that. That is convincing evidence that we had to do everything possible to cut the deficit. The Senate passed resolution had that become the law, Mr. President, today we would not be looking for $19 billion or $15 billion to get these sequester cuts. We would be looking for just $2 billion.

Mr. President, when we brought the Domenici-Chiles proposal to the floor, it contained some $19 billion in revenues. If we had kept them in, we would not be here now. But more than $5 billion was removed on the floor. Even if we had approved what was left, we would still be at $151 billion, well within the statutory cushion, and we would not be facing a possible sequester.

But that is history. Now we have to come up with more cuts in reconciliation, or vote on sequester.

We are in a position now where the advice of an old Florida farmer comes into play. That farmer used to tell people, "if you want anything and can't find it, just come to me and I'll tell you how to get along without."

I wish that farmer were here right now, because we are going to have to get along without a lot of things to produce an effective reconciliation package.

So what we have is a set of choices to make. We can pass this reconciliation plus an extra $10 billion of deficit reduction, avoid sequester, and still miss the target by a little under $10 billion.

Or we could turn our backs on reconciliation and face a vote on sequester. If we approve the sequester, we will reach the $144 billion target, but we will do it by shaving all spending, the good with the bad, more than 9 percent from domestic spending and about 7 percent from defense spending.

Or finally, we could turn our backs on both reconciliation and sequester, and end up with a deficit of well over $170 billion. Then we will simply be reducing the standard of living of our children and grandchildren when the bill comes due on that debt.

Those are the three choices. If you think we can just keep nudging the problem over into next year, then next year's going to be a real bloodletting. If you think we can ignore the problem altogether, then next year will be even worse.

There simply is not enough in the pending reconciliation package to do any good. We have to find more savings, and, as I said, Mr. President, we have about 36 hours to do that in.

SIXTH OMNIBUS BUDGET RECONCILIATION ACT, 1986

Mr. DOMENICI. Mr. President, the time is growing short. The new budget year begins 2 weeks from today and our fiscal house is still not in order. Last night we began action on the implementing legislation for next year's budget, which the Congress adopted last June. And this debate begins with the very real threat that, if we fail to do our job, the sequester process in Gramm-Rudman-Hollings will do our job for us.

I do not want to take very much of my colleagues time. But, I do think that it might be helpful to review the present situation and just how we got here.

As almost everyone knows, the Congressional Budget Office and the Office of Management and Budget issued a joint report, as required under Gramm-Rudman-Hollings, which projects the fiscal year 1987 deficit under current economic and technical conditions and based on laws now in place. The average of the individual CBO and OMB deficit estimates is $163.4 billion—or $9.4 billion over the deficit point—$154 billion—at which a sequester is required under Gramm-Rudman-Hollings.

Indeed, the Congress has received the CBO-OMB report which identifies the amount by which the current deficit estimate exceeds the $144 billion maximum deficit target in law and outlines how the across-the-board cuts required by law are to be distributed—5.6 percent for defense programs and 7.6 percent for all nondefense programs included in the sequester base. Last Friday, the Temporary Joint Committee, which includes the combined memberships of both the House and Senate Budget Committees, reported a resolution affirming the CBO-OMB report. The Senate now faces a vote affirming these cuts, as early as tomorrow night.

Now, there may be some who will say that the reason we find ourselves in this unenviable position is a failure of the regular budget process. To the contrary, if we had bound ourselves to implementing the policies we agreed to in the budget resolution and had finished our work in a timely manner, we would not find ourselves here today.

We began deliberations on the fiscal year 1987 budget back in February of this year. At that time the Congressional Budget Office estimated that the deficit for the upcoming fiscal year would total $183 billion. The Gramm-Rudman-Hollings target for the year, of course, is $144 billion. We needed to find $38 billion in deficit reduction to avoid a potential fall sequester.

The Budget Committee went to work. In mid-March we reported a budget resolution that met the Gramm-Rudman-Hollings targets, provided a 2.8-percent growth in defense budget authority, reduced nondefense spending by over $15 billion, and proposed increased revenues of about $13 billion over the President's request. That resolution also significantly reconciled the spending and revenue assumptions.

Mr. President, I stand before this Chamber today to tell those who are listening that, had Congress followed through with the reported resolution, we would not be facing a potential sequester on October 1 and, equally as important, our job to meet the outyear targets would be significantly less difficult.

Let me go on. The full Senate took up the committee's reported resolution and, again, passed a blueprint that met the Gramm-Rudman-Hollings target, increased revenues by about $8 billion over the President's request, and further reduced nondefense spending by $21 billion. Much of the savings in that resolution was reconciled, and, again, had that Senate-passed resolution been fully implemented we would not be facing the October sequester here tonight.

When we went to conference the situation rapidly deteriorated. After almost 4 weeks of protracted negotiation, it became evident that, while the budget agreement totaled about $30 billion in new deficit savings—in addition to the $9.4 billion already achieved in COBRA—we could get a commitment to reconcile no more than $9.2 billion. This means that we failed to get a substantial commitment to the process by which much of these savings would be achieved.

It is clear that if we had moved forward with a reconciliation bill that achieved the full amount of the direct spending savings and revenue increases agreed to in the budget, we would not today face this prospect of a sequester. Instead, we are tonight for the first time addressing the reconciliation bill for next year. This bill contains $3.7 billion in savings by CBO estimates and only $3.1 billion according to OMB. This bill falls far short of the $9.4 billion average in the CBO-OMB estimates, and even farther short of the amount we are likely to need when the final estimates are made in October.

Let me explain. The joint CBO-OMB report shows that we are now, at this moment, $9.4 billion over the $154 billion sequester threshold. However, we have not passed any full year appropriations bills, nor have we accounted for other legislation which might add to the current CBO-OMB estimates.

These estimates are based, as I indicated earlier in my remarks, on laws now in place. This means that these deficit estimates are based on fiscal year 1986 appropriated budget authority levels.

Moreover, these estimates do not include legislation currently pending in both Houses to provide that Social Security COLA's are paid no matter what the actual inflation rate is instead of the 3-percent threshold in current law. One other large area is CCC deficiency payments. CBO assumes these payments will be accelerated from fiscal year 1988 to fiscal year 1987 as they were this year. OMB makes no such assumption. To be prudent, we should anticipate that these payments will be made whether by legislation during this session or by administrative action.

I would like to introduce into the RECORD at this point, Mr. President, a table which shows the effect of this legislation on the CBO-OMB deficit estimates. As this table shows, enactment of full year appropriations bills consistent with the 302(b) allocations in the budget resolution could add about $1.7 billion or more to the Gramm-Rudman-Hollings deficit base. Let me emphasize that these appropriations bills add money mainly because they are being costed against this year's appropriations base and not because of any oversight or fiscal disregard on the part of the Appropriations Committee. Indeed, this small increase for all appropriations action above this year's level reflects the real degree of restraint that the Appropriations Committee has had to face.

This table also shows that another $1.7 billion would have to be added to OMB's estimates if the regular appropriations bills are enacted because OMB estimates of appropriated entitlements are based on the fiscal year 1986 levels, rather than the current law level.

An additional $4.3 billion should also be added to the OMB level for the acceleration in advanced deficiency payments which, at this point, they do not assume will happen. And finally, $800 million needs to be added to the CBO figures to account for the enactment of the Social Security COLA legislation—which will surely come.

The bottom line is that $9.4 billion will not do the job. We need to develop a package that totals at least $14.5 billion and we have only $3.7 billion in the current reported version. This will not be an easy task and the rules regarding debate on reconciliation do not make it any easier. Indeed, Senator CHILES and I are attempting to come up with a process whereby the Senate can work its will to meet this goal and yet not violate the spirit of the rules and limitations that apply to reconciliation legislation.

In conclusion, let me say that I do not share the pessimism of many that suggests the Senate, and ultimately the Congress, will fail to meet its obli-

gations under the Gramm-Rudman-Hollings law. Already, we have seen a willingness to compromise and to go back and look for more savings on the part of many Senators. We begin now what will be a very difficult process that will require forebearance on the part of all. I ask my colleagues for understanding because we are on new ground, to be sure. But, in the end, the budget and, ultimately, the American people will benefit.

The table follows:

Needed Deficit Reduction to Avoid October 1 Sequester

[In billions of dollars]

CBO/OMB August 20 deficit snapshot	163.4
OMB:	
Legislation adding to deficit:	
COLA	.....
Farm deficiency payments	+4.3
Appropriations:	
Appropriated entitlements	+1.7
Appropriations at Senate levels	+1.7
CBO:	
Legislation adding to deficit:	
COLA	+0.8
Farm deficiency payments	.....
Appropriations:	
Appropriated entitlements	.....
Appropriations at Senate levels	+1.7
Legislation adding to deficit	+5.1
CBO/OMB October 1 deficit snapshot	168.5
Deficit needed to avoid sequester	154.0
Deficit reduction needed	14.5

RECESS UNTIL 1:30 P.M.

Mr. COCHRAN. Mr. President, at the request of the majority leader I ask unanimous consent that the Senate now stand in recess until 1:30 p.m. with the time between now and 1:30 p.m. to be charged equally against the resolution.

There being no objection, the Senate at 11:59 a.m., recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. MATTINGLY].

□ 1330

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed as in morning business for not to exceed 5 minutes and that I may speak therein.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE CONTINUING TRADE CRISIS

Mr. BYRD. Mr. President, the Commerce Department announced today its latest estimates for economic activity in the second quarter of this year. It has come up with the same dismal growth rate of 0.6 percent that it estimated last month. Measured in terms of constant 1982 dollars, our Nation's output rose only $5.5 billion during the second quarter. If the $10.6 billion increase in national defense purchases is excluded, one will find that our civilian production actually declined in the second quarter.

When one looks into the causes for our sluggish growth, one thing stands out. Americans are buying more goods, but most of the growth in our market has been swallowed up by rising imports and production that no longer goes to export markets. At a time when our civilian output declined and sales of civilian output rose $20 billion, our trade deficit ballooned by $28 billion. Imports soared by $19 billion and we lost export sales of $9 billion.

It is worth noting that these appalling trade figures cover only April through June and do not include the record $18 billion trade deficit figure for the month of July alone.

The administration has been assuring us that the decline in the dollar would bring dramatic relief to our trade deficit. Imports might rise in price but their real volume would be reduced and our exports would rise. In fact, well over a year after the dollar began its decline in February 1985, neither of those trends has appeared. Our import volume continues to soar and our export volume has headed south.

As long as the growth in the U.S. market continues to be supplied primarily by increased imports and displaced exports, we will have little or no growth. We will enjoy an overall economic turnaround only when progress on the trade front occurs. That will happen when this administration recognizes the crisis in trade—a crisis attributable in part to the lack of a realistic trade policy—and takes appropriate action.

The administration's failed approach to trade is not working and too many Americans are not working as a result. Today's GNP figures demonstrate once again that the administration's failure to cope with the trade crisis is hurting the total economy, not just isolated sectors and regions.

OMNIBUS BUDGET RECONCILIATION ACT, 1987

The Senate continued with the consideration of the bill.

Mr. SPECTER. Mr. President, I ask unanimous consent. I may suggest the absence of a quorum and that the time be equally charged on the reconciliation bill, which is presently before the body.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1350

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COCHRAN). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 2706.

Mr. DOLE. Mr. President, I have been discussing this with a number of the principals with reference to the highway bill. I would advise my colleagues that Senator BYRD is aware of what I propose to do at this point. I am going to ask in a moment, or ask now, unanimous consent that we turn to the Calendar 870, the budget waiver to accompany the highway bill.

I assume there are going to be reservations or outright objections.

But I would propose that we take an hour off of our side on the reconciliation bill so that Members who have an interest could discuss their problems with the particular provisions of the highway bill. Maybe we could reach some agreement.

So I would suggest that perhaps I make the request and someone reserve the right to object.

I will ask unanimous consent that we have an hour off of our time on this side on the reconciliation bill to discuss various reservations Members have.

Mr. BENTSEN. Mr. President, I reserve the right to object. If I may state as the ranking member on the Environmental and Public Works Committee, I hope very much we can resolve these differences and then be able to get on with the highway bill.

I think it is critical that we get it passed. The authorization is expiring.

We addressed it this morning in the Finance Committee, as the Senator knows, and took care of the text part of it, so we have that all together to move on.

I know the House shares our anxiety in that regard.

So, obviously we have to clear it with the minority leader in that regard. But I am hopeful we can get an answer on that very quickly on our side.

Mr. DOLE. The Senator has no objection to maybe some of the principals discussing their concerns.

Mr. BENTSEN. None whatsoever.

BUDGET ACT WAIVER ON HIGHWAY BILL

Mr. DOLE. Mr. President, let me make the request and I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 870,

S. Res. 459, the budget waiver to accompany the highway bill.

I ask also at this time, is there reservation.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

Mr. DIXON. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DIXON. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. Who yields time?

The Senator from Illinois reserves the right to object.

Mr. DOLE. If the Senator will yield right there, I ask unanimous consent at this time there be an hour allotted to discuss the various reservations Members have and at the end of that time, they can just object,

Mr. DIXON. Reserving the right to object, Mr. President, if the majority leader will yield, may I have the attention of the majority leader? If all the majority leader is asking unanimous consent for is 1 hour off the reconciliation bill on that side to discuss the question of taking up this bill, I do not have any problem with that. But if the majority leader is asking that we do set aside the reconciliation bill to take up this bill, I object to that.

I do not have any problem about discussing it. But we have difficulty about taking up that bill unless we can have an understanding about some things that would not be considered in connection with that legislation, may I say.

□ 1400

Mr. DOLE. The Senator is correct. All I am suggesting is we take an hour off of reconciliation—we are still on reconciliation—and that we have discussion on the Senate floor by people who have different points of view on the highway bill. This might help us to resolve those. But we would not be moving to the highway bill.

Mr. DIXON. I have no objection to that procedure, Mr. President.

The PRESIDING OFFICER. Is there any objection? Without objection, it is so ordered.

Does the Senator from Illinois seek recognition under his reservation to object?

Mr. DIXON. I do, Mr. President.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIXON. Mr. President, I see other colleagues of mine—the distinguished Senator from New York, Senator D'AMATO; my colleague from Illinois, Senator SIMON; my colleague from New Jersey, Senator LAUTENBERG—and I understand there are a number of other Senators who would come to the floor immediately, including the distinguished Senator from Pennsylvania, Senator SPECTER, who had been here earlier, and others, concerning something we understand would be contemplated by the distinguished manager and the distinguished ranking member and others from the committee in connection with this bill.

We are told, quite candidly, Mr. President, that should this bill come up for consideration on Calendar 870, the highway bill, that it would be the intention of the managers of the bill and others on that committee to attempt to place in the bill a limitation of 85 percent on the use of the transit money in connection with the mass transit account, which would adversely impact, of course, Mr. President, the major States, the large States of the country with major transit systems.

Frankly, if our colleagues want to get into that sometime, at an appropriate time after we are prepared to do so, some of us from the States that would be adversely affected would want to introduce another amendment to be considered at that time putting a $1.50 limitation on the amount of highway funds any State could use, which would adversely impact some of the States who are represented by the managers and who profit to a very substantial extent from the use of highway funds.

We would like to avoid all of that quarrel between all of us, Mr. President. There is not time left in the number of days left in this session to go into that.

We have no problem with taking up the highway bill. As a matter of fact—I am only speaking for this Senator from Illinois—I do not have any problem with discussing the 55-mile-per-hour speed limit, if some of my colleagues want to bring that up. I may not support increasing it, of course, but I would have no problem with a legitimate debate and a reasonable time limit and a vote on that kind of question. I have no problem with the highway bill itself.

But a number of us have a great deal of trouble and serious reservations about taking up this legislation unless we have an understanding from the managers that there will not be an attempt made by the managers, or others associated with them, to offer such an amendment concerning an 85-percent limitation. We would have a great deal of difficulty with that.

Frankly, should that be the case, then at the appropriate time, this Senator would have to object.

I would like to read very briefly a letter, Mr. President, which I think would express the point of view of my distinguished colleague and friend, the distinguished Senator from New York, Senator D'AMATO; my distinguished colleague and friend, the Senator from New Jersey, Senator LAUTENBERG; and my warm friend and colleague from Illinois, Senator SIMON; and others. It is a letter we sent out to our colleagues, Mr. President, on September 15. If I may indulge our colleagues so that our full point of view is made clear. We have on this letter, I might say, the Senator from Illinois, from New Jersey, from Massachusetts, from Maryland; I see a Senator from Georgia, from California, Pennsylvania, and others.

SEPTEMBER 15, 1986.

DEAR COLLEAGUE: During consideration of S. 2405, the "Federal-aid Highway Act of 1986," an amendment may be offered by Senator Symms to guarantee each State a minimum 85 percent return on user fees paid into the Mass Transit Account.

We strongly oppose this amendment. It effectively destroys the section 3 discretionary grant program. It amounts to another major cut in federal support for transit, even though transit spending has already suffered major cutbacks. It is grossly unfair and inequitable.

The amendment is, in essence, nothing more than an attempt to permit States with little or not transit service to raid the Mass Transit Account for highway purposes. It is a raid that the transit program simply cannot afford. The fiscal year 1987 Senate-reported DOT Appropriations bill limits transit spending to roughly $3.4 billion, $1.2 billion below the fiscal year 1981 level.

In other words, Mr. President, in the last 6 years, transit spending in this country has dropped $1.2 billion, went down $1.2 billion.

While transit was falling by over 25 percent—despite the enactment of legislation allocating 1 cent of the Federal gas tax to transit—highway spending was increasing by over 40 percent, to roughly $13 billion projected for fiscal year 1987.

So, if I may depart again from the text, Mr. President, mass transit down $1.2 billion, highway spending up $13 billion in the same period of time.

It is true that most of the section 3 discretionary grant program goes to the states that have or are building major transit systems. However, the bulk of federal transit spending is distributed by formula, and every state receives this formula assistance to help meet its transit needs.

Both large and small transit systems are increasingly unable to meet their financing needs. Maintenance and needed improvements have been deferred. Service has been cut. Yet the Symms amendment would cut discretionary capital funding for a number of major transit systems by up to 70 percent or more. It takes away well over $600 million from these systems and the millions of passengers they serve. It effectively cuts the Section 3 discretionary grant program by more than 60 percent.

The Symms amendment makes these deep cuts based on the argument that many states don't get their fair share of Mass Transit Account money. However, the great majority of "winners" under the Symms amendment are already big winners out of the Highway Trust Fund. Most of these states were allocated over $1.30 in highway funds for every dollar they contributed to that trust fund in Fiscal Year 1985; 15 of them received $1.75 or more for every dollar they contributed.

The majority of the "losing" states, on the other hand, historically have received less from the Highway Trust Fund than the na-

tional average compared to what they contribute. There is no good reason for these states to have their transit programs gutted in order to provide still more highway funds to states that are already big "winners" under the Highway Trust Fund.

We intend to see that this proposal, if offered, gets the kind of full and comprehensive review that will allow Senators to make an informed judgment of its true merit. We urge our colleagues to join us opposing this ill-conceived amendment.

If you need any further information, please contact Ed Rogers of Senator Heinz's staff at 4-6324 or Bill Mattea of Senator Dixon's staff at 4-2854.

Sincerely,

Alan J. Dixon, John Heinz, Frank R. Lautenberg, Alfonse D'Amato, Paul Simon, Paul Sarbanes, John F. Kerry, Sam Nunn, Pete Wilson, Arlen Specter.

So, Mr. President, in conclusion, let me simply make this remark, which I think will be shared by other colleagues. I see my distinguished friend from New York State on his feet. His eloquence is unsurpassed in this body and I know he has a great deal to say on this same subject.

But the point we want to make is that we feel very strongly that the mass transit needs of our States, represented here by those who will oppose this attempt, has already been massively injured in the last few years by the sharp reduction in expenditures of $1.2 billion, while highway funds have increased by $13 billion; that any attempt of this kind is well out of bounds and ought not to be countenanced, and we do not want to undertake this in this short session.

□ 1410

There may be another time and another place perhaps in the next session.

Mr. President, when there is plenty of time early on to discuss this at length, I am sure my colleagues and I would be happy to accommodate our friends on the committee at that time. But we will object to going forward at this time.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I respect and admire my colleagues here, and my distinguished friend from Illinois. But I think we should put this in a proper perspective. We are talking about a $52 billion highway program. To move it forward so we can have continuity in the Federal Aid Highway Program that affects all 50 States, and to make the comparison of what the mass transit problems are in Chicago, with the transits, say, of getting people through the State of North Dakota. It is just not an accurate comparison.

I just say to my good friend, he is making an argument here that is simply comparing apples with oranges. It is true that North Dakota, for example, gets back more dollars in highway funds than they put into the fund. But it is a national and defense highway system. In order to get from one end of the State to the other, there has to be a highway all the way through it.

We are talking about transit problems in places like Chicago, New York City, and the New Jersey area that my colleagues here on the floor say are more localized problems. They do not fit the same prescription as the National Highway Program. We should first get that point clear.

Second, we will bring the charts over here if we want to start talking about funding and dollars. What I would like to appeal to him is, I think those of us in this committee—and I can speak for all of us on the committee—have no desire to in any way have an amendment here that is going to disrupt the continuity of the Federal Aid Highway Program.

But the problem that the Senator is pointing out, those States who get the mass transit funds are getting $2, and $3 plus back for what they are putting in.

So I urge my colleague not to get into the argument about hgw poor ygur State is doing and how well my State is doing because the record shows on the transit chart that very few States and big cities get all of the transit dollars. There are some 38 States that are losers on the 1-cent a gallon.

In 1982, when President Reagan provided the leadership to pass the Surface Transportation Act of 1982, he made a compromise. The compromise was the 1-cent a gallon that carried with it a half a percent allocation of the total funds to each State which is true for our funds and our interstate funds. That is the way it passed the Senate. That was lgst in conference in the compromise on the Surface Transportation Act. Yet, with that 1-cent compromise carried the implication that we would get back something out of those dollars.

In my State, it is 1 cent. In North Dakota it is 1 cent. In Illinois it is 1 cent. It all goes into the mass transit fund. We are not getting back anything substantial in our States on that 1 penny.

That is the issue. It is a fairness question. If we want to have a National Interstate Defense Highway System, where we all cooperate as the 50 sovereign States, we have to have fairness applied to this.

I would appeal to my colleagues. We are willing to work this out. If you look at the formula of what passed in the other body on the highway dollars, the States like Idaho, like North Dakota, like South Dakota, like Nebraska, like Kansas, they would lose dramatically in highway funds if we accept the House formula.

We have to go to conference with our colleagues in the other body. We have to work out some kind of an agreement. I do not think any of us in the Senate Subcommittee on Transportation are so naive and so inexperienced in politics to think that we are going to go over and deal with our friends JIM HOWARD, BUD SHUSTER, and GLENN ANDERSON in the other body and come back with the full 85 percent.

We would, however, not be able to have a Federal Aid Highway Program if in fact we had to take the House formula on the highways, because then the State of North Dakota, a small State—and I might say a State that is not a wealthy State right now due to the farm economy, has hundreds of miles of interstate going across it, and very few people to pay into it—would not even be able to raise enough money to maintain the Interstate Highway Program if we had to accept the formula that the city, State, urban, and House of Representatives comes up with.

The one beauty about the Highway Program is we have two Senators from each State to help protect the 50 States. What we really are asking for—is fairness. You have a discretionary spending program with respect to the mass transit funds where basically there is not any formula. It is a discretionary program. So most of the money is going to very, very few places.

We are not talking about massive cutbacks. I do not know where the Senators get their numbers. But we will bring some charts over to point this out to my colleagues. I think we are willing to work out some agreement.

But for us to interfere with passing a $52 billion highway program would be a dramatic mistake for the country. It would be bad for commerce. It would be bad for people's opportunities. I would appeal to my colleagues to say what other things do the taxpayers spend their money on that they actually get back any more personal mobility, freedom, if you will, and opportunity, because of their ability to get in their automobile and travel on a good road system than they get from their Federal highway dollars?

I think it would be a mistake if we allowed for an interference here over a dispute that we have over what I view as fair and what my colleagues view as what is fair over the mass transit 1 penny—to interfere with that over the other 8 cents that people are paying that needs to be a sustained continued highway program without work stoppages and slowdowns.

So what I would say to my colleagues, I would suggest that they might consider the idea that we set aside temporarily, any amendments

dealing with the mass transit system and most certainly the amendment that the Senator is suggesting of a $1.50 limitation on the Highway Program. That is totally out of bounds with the intent of the national highway program and system because we have some States who have long miles to travel over very rough terrain.

Mr. DIXON. Will my colleague yield?

My colleague talks about fairness and talks about their need for highway funds where they need a lot more roads because they are big States that need more roads but do not mind taking our money from mass transit when we are the few States with the mass transit needs.

What I have said to my friend is since 1956, for 30 years, he has been getting back almost 2 bucks for every buck he sends down here in money for his highways and I am not squawking about that.

Mr. SYMMS. That is the only way we get those good potatoes to your market.

Mr. DIXON. How is that fairness?

Mr. SYMMS. The way it is fair in this.

Mr. DIXON. I am saying the Senator wants to limit us to 85 percent. Then why does he not limit himself to $1.50?

Mr. SYMMS. We are not limiting the Senator to 85 cents. We are trying to see that we get a floor, that we get something back. If we got 50 cents back on the dollar, we would not be squawking quite so much. If we had done it the way it passed the Senate originally, we would be getting more back than we are talking about now. This is a reduction. If we applied the old half-a-cent rule that is still in the bill with respect to our funds, there would be a lot more money for my State and like the State of the Senator from North Dakota.

The Senator and I have made a compromise by suggesting the 85-cent minimum. If you want to get from Chicago to Seattle, you have to pass through several States. So it is a national highway system. It transits through certain States.

Mr. DIXON. Would my friend yield?

Mr. SYMMS. It is more of a localized problem. We are still helping you. We are willing to pay in our 1 cent. We want to get something back.

Mr. DIXON. We want to help you too. But does my friend yield a moment?

Mr. SYMMS. Sure.

Mr. DIXON. Remember when we passed the nickel tax in the interstate highway improvement fund a couple of years ago? This Senator was very supportive of that legislation as the Senator knows. As a matter of fact, believe it or not, the State of Illinois had the most Members of the Congress come, Senators and people in the House, voting in favor of that bill than any major State in the Union, any of the larger States.

□ 1420

I do not know if you know that is a fact. It is a fact.

One of the inducements for us to do that was the penny for the mass transit system.

Now my friend wants to come back and, by some insidious device that they have somehow developed in the committee, strip off some of that money and put it into the programs for other States.

I want to say to my friend that violates the spirit of fairness that appealed to us when this whole matter was discussed several years ago and when so many of us supported this legislation with so much enthusiasm.

Mr. SYMMS. I thank my colleague for making that point. I appreciated the support we received from the Illinois delegation in the Senate and in the other body.

But when the bill passed the Senate, it was much more generous to the other 38 States that are nonrecipients of this mass transit fund, than of the four Senators who sent out the letter: BENTSEN, BURDICK, STAFFORD, and myself.

I would point out that all our amendment would do is to offer a guarantee that each State would get a minimum 85-percent annual return.

That is probably negotiable. It can probably be compromised. I do not know how it will come out in the House of Representatives. To compare a national highway system with a local problem of transit, for a Chicago area or New York City transit area, where you do not have people who have to pass through for interstate commerce or for defense purposes, there is a difference.

Mr. D'AMATO. Will the Senator yield?

Mr. SYMMS. I am happy to yield.

Mr. D'AMATO. I respect the work that my distinguished colleague and his committee have done on the highway bill. Federal support for building major highway projects must be evaluated with careful reflection upon the facts regarding critical urban and rural transit needs. In my State of New York, or in Illinois, or in New Jersey, for example, transit service provides a vital link in regional transportation networks.

I take some pride in having been the author, of the portion of the Surface Transportation Assistance Act of 1982 which set aside one penny of the nickle gas tax increase specifically for discretionary transit capital grants.

Let me assure the Members here that if we look back at the record, there would have been no additional 4 cents per gallon gasoline tax for highway projects unless there was an agreement to set aside another penny for transit projects, as my dear friend from Illinois, Senator DIXON, has suggested.

The Surface Transportation Assistance Act was dead in the water before that compromise was reached. Without the transit-dependent States getting the one penny of gas tax that was agreed to, there would have been no additional money at all.

Now to attempt to say, under the guise of fairness, that we will revisit the question and that those transit dollars will be looked at as a source of reimbursement to the other highway dependent States flies in the face of what this body stands for.

The various States of this Nation have diverse needs and I have voted to support them. We in the urban, transit-dependent States have voted for hydropower projects, land reclamation projects, agriculture subsidies, and many other programs. We understand when a State has proportionately greater needs and may require allocations of Federal funds in excess of its contributions in particular programs of great regional importance.

I have to suggest to my distinguished colleague that as much as I want to pass the highway bill, and I will support this $52 billion bill, I could not agree to taking it up under a unanimous-consent agreement unless it provided that no amendment dealing with reallocation of transit funds in the mass transit account for highway projects would be in order.

With respect to the proposed formula of an 85-percent minimum allocation of the mass transit account, you say you would be willing to reduce it to 50 percent. My State would lose $214 million under your original plan. You say this is negotiable. To negotiate a loss from $214 million to $175 million is not acceptable. To negotiate a loss of any funds as it relates to this one penny is absolutely unacceptable.

Mr. SYMMS. I thank my friend from New York.

Mr. President, I ask unanimous consent that the letter to which I made reference be made part of the RECORD at this point, with additional material which is with it.

Mr. LAUTENBERG. Mr. President, I reserve the right to object. I want the letter read.

The PRESIDING OFFICER. The Senator reserves the right to object.

Mr. SYMMS. I will be happy to read the letter to my colleague. I do not want to take all this extra time.

I want to make some points about this to my friend from New York. I will read some of the highlights of what the text of this points out.

Of the current distribution, the States listed below received 81 percent of the 2-year total funds distributed from the mass transit account during

fiscal year 1984 and 1985. The last four States received 2.9 percent of the total.

This is what we are talking about. Listen to this.

New Jersey and New York received more than $487 million, 22 percent of the entire allocation. California, $351 million, 16 percent.

Mr D'AMATO. Does my friend have any knowledge with respect to the percentage of transit riders as well as to the percentage of transit dollars that represent the respective shares of New Jersey and New York? I think our percentage of transit riders is far greater than our percentage of transit dollars.

Mr. SYMMS. That may be the case.

Mr. D'AMATO. If we are going to compare apples with apples, let us make sure we consider all the relevant facts.

Mr. SYMMS. Pennsylvania, $283 million, 13 percent; Georgia, $189 million, 8 percent; Illinois, $165 million, 7 percent; Texas, $139 million, 6.5 percent; Massachusetts, $132 million, 6 percent. That is 81 percent. Then there are Oregon, Michigan, Florida, and Louisiana getting another 9 percent. That is a total of 91 percent of all of those dollars. The remaining 2-year total of the funds went to 38 States and the District of Columbia, each of which received less than 1.5 percent of the total funds distributed.

I want to repeat again that the formula that we have arrived at in talking about the 85 percent——

Mr. LAUTENBERG. Will the Senator yield for a question?

Mr. SYMMS. I am happy to yield.

Mr. LAUTENBERG. Can the Senator supply us with the contributions made by the States he just outlined in terms of the percentage that they contribute?

Mr. SYMMS. Yes. That is part of the information I have submitted for the RECORD.

For example, New Jersey's 1985 gas tax account was $39.326 million. The total received was $774,000.

New York was $266.846 million, and the New York contribution was $61.324 million.

The minimum allocation difference——

Mr. LAUTENBERG. The New Jersey contribution for 1985 was $39 million and the return that our State got was $33.5 million. Am I correct?

Mr. SYMMS. The State of New Jersey received $774,000. That is probably a poor example because of the sharing with the New York Port Authority.

Mr. LAUTENBERG. Is that the kind of fairness formula you are talking about?

Mr. SYMMS. I am saying you get $266 million in New York and they paid in $61 million. This amendment would actually help New Jersey, which would probably turn it back in to the Port Authority. It might not have that big of an impact on the State of New Jersey.

Mr. SIMON. Will my colleague yield?

Mr. SYMMS. I am happy to yield.

Mr. SIMON. There is one other problem which has not been touched upon, if I understand the amendment correctly. That is that it would adversely impact on Illinois, Iowa, Indiana, and Ohio, States where we have had quite a bit of gasohol consumption. Is that correct?

Mr. SYMMS. Gasohol is not counted either in the highway. There is a gasohol exemption. I believe it is 6 cents a gallon out of the 9 cents.

□ 1430

So I do not think gasohol would have had any impact. But gasohol is an exemption in the Federal Aid Highway Program that the Highway Users Federation complains constantly about because it does bleed money off of the trust fund by allowing a 1-to-10 ratio. So, in other words, they put in one gallon of alcohol, nine gallons of gas, and they get the exemption.

Mr. SIMON. It bleeds money for two reasons. We have constantly wanted to experiment, we want to do the research, and we want to encourage agriculture.

Mr. SYMMS. Right.

Mr. SIMON. But now all of a sudden, if you penalize, as I understand the amendment of the Senator, Illinois, Iowa, Indiana, Ohio, and other States that may have heavy gasohol use, it just seems to me that is contrary to the best national interests.

Mr. SYMMS. I might just say to my good friend, Congress did decide to exempt gasohol, and in States like the Senator's and mine, it is a very popular issue. There are some people who view it as an exemption because those people who burn gasohol also wear out highways. That is another argument. That is not what I am arguing about now. I think that if we could work out something with my colleagues—and I suggest again someone may still wish to speak on this. I think the Senator from New York and the Senators from Illinois and New Jersey, made their points of view clear. I would hope that somehow we can settle this. What we are talking about is that we have a 9 cents a gallon fuel user's fee to try to pay for the Nation's highway program with 1 cent transferred for mass transit needs. Now, we have mass transit and urban needs for roads in rural States also. We have urban bus systems in a lot of cities and communities that are clamoring for more dollars to help those urban systems operating and clamoring for more urban roads that could be used in the flexibility. But I am appealing to my colleagues to work out some program where we can move forward with the highway bill and get the $52 billion out to the 50 States.

Mr. D'AMATO. Will the Senator yield?

Mr. SYMMS. So that the highway program can be sustained so the people can continue to have the road programs they expect. One of the good things about the Federal Highway Program is when you see those road crews out there working on the roads, in your States those projects are already paid for. They are not something that is being done the way most things in Washington, DC work, where you borrow now and then figure you will pay later. These projects are paid for and let us not hold the money up over that. I will yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I do not want to be accused of impeding the work of the Environment and Public Works Committee, which has come so far in advancing this highway bill. I believe that it is a good bill. But a number of us who are on the floor today——

Mr. SYMMS. Will my good friend yield?

Mr. D'AMATO. For a question.

Mr. SYMMS. I want to make a unanimous-consent request. I think I have this worked out. If the Senator will yield, I would appreciate it.

Mr. President, I ask unanimous consent again to insert in the RECORD, a Dear Colleague letter from Senators BENTSEN, BURDICK, STAFFORD, and myself, plus the substantiating material.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, August 25, 1986.

DEAR COLLEAGUE: On May 6, 1986, we introduced S. 2405, the "Federal-aid Highway Act of 1986," reauthorizing the Federal-aid highway program for fiscal years 1987 through 1990. As introduced, section 129 of the bill guaranteed each state a minimum 85 percent annual return on user fees paid into the Mass Transit Account (MTA) by highway users in that state. This minimum return from the MTA is consistent with the 85 percent minimum allocation adopted by Congress in 1982 as part of the Federal-aid highway program.

During markup of the bill, the Committee adopted by voice vote a motion to strike section 129. The Committee had received a letter from the leadership of the Banking Committee asking that we "refrain from pursuing [section 129] so that the Senate Committee on Banking, Housing and Urban Affairs, which has jurisdiction over mass transportation issues, may consider this proposal during its action on reauthorizing the Mass Transportation Act." Having deferred to the request of the Banking Committee, we intend to offer an amendment restoring the provisions of section 129 to S. 2405 when the bill is considered on the Senate floor.

The amendment we will offer guarantees each state a minimum 85 percent annual return on user fees paid into the MTA by highway users in that state. Unlike the original section 129, which allowed a state of use these funds either on transit projects or on highway projects at the state's discretion, this amendment requires a state to certify that its transit needs have been met before using the funds on highway projects. We believe that adoption of this amendment would assure continued support for the agreement reached in 1982 to create the Mass Transit Account and to fund it with 1 cent of the 9 cent per gallon federal gas tax.

Despite the fact that highway users in every state contribute to the Account, most MTA funds are distributed on a discretionary basis with no minimum guarantee to any state. As a result, 8 states received 82 percent of the MTA funds distributed in fiscal years 1984 and 1985. Another 4 states received just over 9 percent of the total distribution, leaving 38 states, the District of Columbia, and the Territories to divide the remaining 9 percent ($191.2 million) of the two-year distribution of funds.

This inequitable distribution of funds should not exist in a national public works program financed by highway users across the country. Our amendment will provide each state a fair return on its MTA investment.

For your information, we are enclosing: (1) a chart showing the state-by-state distribution of MTA funds in fiscal years 1984 and 1985, (2) a chart showing those states that received the bulk of the MTA funds distributed in fiscal years 1984 and 1985, and (3) a copy of the amendment.

We invite you to cosponsor this important amendment to assure an equitable distribution of the transit funds paid by highway users in your state. Please call Jean Lauver (Majority Staff) at 4-7863 or Paulette Hansen (Minority Staff) at 4-6844 if you would like to cosponsor or need more information.

Sincerely,

From the Committee on Environment and Public Works:

LLOYD BENTSEN,
Ranking Minority Member,
ROBERT T. STAFFORD,
Chairman.

From the Subcommittee on Transportation:

QUENTIN N. BURDICK,
Ranking Minority Member,
STEVE SYMMS,
Chairman.

S. 2405

S. 2405, as reported by the Senate Environment and Public Works Committee, is amended by adding the following section:

MASS TRANSIT ACCOUNT MINIMUM ALLOCATION

SEC. . (a) Notwithstanding any other provision of law, as soon as is practicable in each fiscal year, commencing with the fiscal year ending September 30, 1987, the Secretary of Transportation shall allocate among the States from the appropriations made from the Mass Transit Account of the Highway Trust Fund for such fiscal year, amounts sufficient to insure that a State's percentage of total allocations from the Mass Transit Account for such fiscal year, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the Mass Transit Account in the latest fiscal year for which data are available. For purposes of this section a State is any one of the 50 States and the District of Columbia.

(b) Notwithstanding any other provision of law, amounts allocated pursuant to subsection (a) of this section shall be available for obligation when allocated for the fiscal year in which allocated plus the three succeeding fiscal years, shall be subject to the appropriate provisions of title 23, United States Code, and the Urban Mass Transportation Act of 1964, as amended, as determined by the Secretary of Transportation, and shall be available for obligation for any projects authorized by the Urban Mass Transportation Act of 1964, as amended, except that where a State certified to the Secretary of Transportation that any part of such amounts are excess to the needs of the State for such projects and the Secretary accepts such certification such excess amounts shall be available for obligation for highway construction projects on any public road.

SECTION ANALYSIS

This section provides for a minimum allocation for the States from the Mass Transit Account of the Highway Trust Fund similar to the minimum allocation for the States from the Highway Account of the Highway Trust Fund. A State's percentage of total allocations from the Mass Transit Account could not be less than 85 percent of the percentage of estimated tax payments attributable to highway users in the State paid into the Mass Transit Account in the latest fiscal year for which data was available. A State is defined as one of the 50 States and the District of Columbia.

Minimum allocation amounts available would be available for 4 years for obligation for transit projects except that where a State did not have transit needs the amounts could be used for highway projects on any public road.

The first 8 states listed below received 81.70 percent of the two-year total of funds distributed from the Mass Transit Account during FY 1984 and FY 1985. The last 4 states received 9.30 percent of the two-year total.

[Dollars in millions]

States	(1)	Percent[2]
New York and New Jersey	$487.6	22.8
California	351.4	16.4
Pennsylvania	283.3	13.3
Georgia	189.0	8.8
Illinois	165.0	7.7
Texas	139.8	6.5
Massachusetts	132.2	6.2
Subtotal		81.7
Oregon	64.7	3.0
Michigan	55.7	2.6
Florida	40.5	1.9
Louisina	38.5	1.8
Subtotal		9.3
Total	1,947.7	91.0

[1] Two-year distribution (fiscal year 1984 and fiscal year 1985).
[2] Distribution as a percentage of the total distribution from the Mass Transit Account (fiscal year 1984 and fiscal year 1985).

The remainder of the two-year total ($2,138.9 million) of funds distributed from the Mass Transit Account went to 38 states, the District of Columbia, and the Territories, each of which received less than 1.5 percent of the funds distributed:

Total—$191.2 million; 9.0 percent.

In 1983, the Mass Transit Account was distributed under the 9(a) formula in which every state received funding.

Mr. SYMMS. Mr President, I also ask unanimous consent to have printed in the RECORD, Department of Transportation talbes relating to 1984 and 1985.

There being no objection, the tables were ordered to be printed in the RECORD, AS FOLLOWS:

DEPARTMENT OF TRANSPORTATION, URBAN MASS TRANSPORTATION ADMINISTRATION

State	St	1984 gas tax cont.	1984 Section 3				85 percent minimum allocation	Difference
			Bus, rail, new starts	Planning	16B2	Total		
Alabama	AL	23,176,194		441,942	510,000	951,942	9,699,765	18,747,823
Alaska	AK	2,997,896		45,200	134,083	179,283	2,548,211	2,368,928
Arizona	AZ	17,358,396		633,128	341,078	974,206	14,754,637	13,780,431
Arkansas	AR	14,642,491		153,801	377,000	530,801	12,446,117	11,915,316
California	CA	128,397,533	220,526,202	7,314,159	1,834,688	229,675,049	109,137,903	(120,537,149)
Colorado	CO	17,021,408	11,294,720	663,852	297,365	12,255,937	14,468,197	2,212,260
Connecticut	CT	15,499,461	4,800,000	446,552	374,138	5,620,690	13,174,542	7,553,852
Delaware	DE	3,810,867		82,128	166,549	248,677	3,239,237	2,990,560
Florida	FL	58,481,965	182,190	2,148,070	1,281,960	3,612,220	49,703,671	46,097,451
Georgia	GA	37,451,697	91,250,000	885,985	585,000	92,720,985	31,833,943	(60,887,042)
Hawaii	HI	3,509,878	2,175,000	153,262	178,652	2,506,914	2,983,396	476,482
Idaho	ID	5,317,815		61,900	189,133	251,033	4,520,143	4,269,110
Illinois	IL	53,168,150	63,588,711	3,137,507	1,020,000	67,746,218	45,192,928	(22,553,290)
Indiana	IN	28,939,993	18,730,425	578,094	528,000	19,836,519	24,598,994	4,762,475
Iowa	IA	14,027,512		882,731	386,010	1,268,741	11,923,385	10,654,644
Kansas	KS	14,890,482		137,559	331,012	468,571	12,656,910	12,188,339
Kentucky	KY	21,150,264		316,010	491,000	807,010	17,977,725	17,170,715
Louisiana	LA	26,698,071		622,184	528,000	1,150,184	22,653,361	21,543,177
Maine	ME	6,390,778	1,207,500	84,900	221,864	1,514,264	5,432,161	3,917,897
Maryland	MD	22,870,204	16,255,649	784,091	408,373	17,448,113	19,439,674	1,991,561

DEPARTMENT OF TRANSPORTATION, URBAN MASS TRANSPORTATION ADMINISTRATION—Continued

State	St	1984 gas tax cont.	1984 Section 3				85 percent minimum allocation	Difference
			Bus, rail, new starts	Planning	16B2	Total		
Massachusetts	MA	26,782,068	71,412,726	1,470,759	631,447	73,514,932	22,764,758	(50,750,174)
Michigan	MI	33,191,845	45,000,000	2,025,104	794,000	47,819,104	28,213,068	(19,606,036)
Minnesota	MN	23,466,184	3,000,000	793,745	448,005	4,241,750	19,946,256	15,704,506
Mississippi	MS	14,892,482		162,187	434,000	596,187	12,658,610	12,062,423
Missouri	MO	30,904,925		1,410,226	585,000	1,995,226	26,269,186	24,273,960
Montana	MT	5,634,804		80,000	182,218	262,218	4,789,583	4,527,365
Nebraska	NB	8,493,705	450,000	148,410	265,000	863,410	7,219,649	6,356,239
Nevada	NV	6,002,791		109,754	171,221	280,975	5,102,372	4,821,397
New Hampshire	NH	4,723,836		80,400	194,856	275,256	4,015,260	3,740,004
New Jersey	NJ	40,048,607		204,000	728,650	932,650	34,041,316	33,108,666
New Mexico	NM	9,300,676		132,162	208,000	340,162	7,905,575	7,565,413
New York	NY	62,450,827	210,383,241	7,064,515	1,680,000	219,127,756	53,083,203	(166,044, 553)
North Carolina	NC	35,629,760		496,697	624,000	1,120,697	30,285,296	29,164,599
North Dakota	ND	4,505,843		80,000	178,200	258,200	3,829,967	3,571,767
Ohio Total	OH	53,591,136	7,665,690	2,002,550	963,000	10,631,240	45,552,465	34,921,225
Oklahoma	OK	22,922,203		324,191	416,000	740,191	19,483,872	18,743,681
Oregon	OR	15,552,459	44,250,000	442,999	331,600	45,024,599	13,219,590	(31,805,009)
Pennsylvania	PA	54,668,098	160,825,063	3,037,469	1,183,265	165,045,801	46,467,883	(118,577,918)
Puerto Rico	PR		9,999,999	641,889	605,000	11,246,888		(11,246,888)
Rhode Island	RI	4,115,857		241,322	213,495	454,817	3,498,478	3,043,661
South Carolina	SC	19,280,329		274,540	377,000	651,540	16,388,280	15,736,740
South Dakota	SD	4,260,852		60,000	189,000	249,000	3,621,724	3,372,724
Tennessee	TN	29,565,971		567,783	548,000	1,115,783	25,131,076	24,015,293
Texas	TX	103,444,401	58,976,195	3,085,321	1,189,000	63,250,516	87,927,741	24,677,225
Utah	UT	8,503,704		236,116	200,350	436,466	7,228,149	6,791,683
Vermont	VT	2,869,900		40,000	165,078	205,078	2,439,415	2,234,337
Virginia	VA	31,292,911		545,340	510,000	1,055,340	26,598,975	25,543,635
Washington	WA	23,177,194	6,999,990	785,000	422,216	8,207,206	19,700,615	11,493,409
Washington, DC	DC	2,062,928		1,075,098	189,000	1,264,098	1,753,489	489,391
West Virginia	WV	9,811,659		133,550	321,000	454,550	8,339,910	7,885,360
Wisconsin	WI	24,512,147	14,256,693	752,815	503,619	15,513,127	20,835,325	5,322,198
Wyoming	WY	4,538,842		60,000	149,971	209,971	3,858,016	3,648,045
Virgin Islands					133,000	133,000		(133,000)
American Samoa					50,602	50,602		(50,602)
N. Mariana					50,315	50,315		(50,315)
Guam					131,000	131,000		(131,000)
Total		1,236,000,000	1,063,229,994	48,136,997	26,150,017	1,137,517,008	1,050,600,000	(86,917,008)

DEPARTMENT OF TRANSPORTATION, URBAN MASS TRANSPORTATION ADMINISTRATION

State	ST	1985 gas tax cont.	1985 section 3				85 percent minimum allocation	Difference
			Bus, rail, new starts	Planning	16B2	Total		
Alabama	AL	22,758,047		344,700	510,000	854,700	19,344,340	18,489,640
Alaska	AK	2,943,807	339,000	24,000	134,172	497,172	2,502,236	2,005,064
Arizona	AZ	17,045,215		543,700	343,194	886,894	14,488,432	13,601,538
Arkansas	AR	14,378,310		100,900	377,000	477,900	12,221,563	11,743,663
California	CA	126,080,976	113,337,731	6,465,700	1,851,428	121,654,859	107,168,829	(14,486,030)
Colorado	CO	16,714,306		573,400	299,053	872,453	14,207,160	13,334,707
Connecticut	CT	15,219,818	822,960	362,500	376,577	1,582,037	12,936,846	11,374,809
Delaware	DE	3,742,111		58,000	166,956	225,756	3,180,795	2,955,039
Florida	FL	57,426,830	33,850,000	1,746,700	1,293,289	36,889,989	48,812,805	11,922,816
Georgia	GA	36,775,991	95,000,000	730,700	585,000	96,315,700	31,259,592	(65,056,108)
Hawaii	HI	3,446,552		126,000	179,177	305,177	2,929,570	2,624,393
Idaho	ID	5,221,871		40,000	189,761	229,761	4,438,590	4,208,829
Illinois	IL	52,208,887	93,517,140	2,721,800	1,020,189	97,259,129	44,377,554	(52,881,575)
Indiana	IN	28,417,856		439,900	530,872	970,772	24,155,177	23,184,405
Iowa	IA	13,774,427		176,000	388,566	564,566	11,708,263	11,143,697
Kansas	KS	14,621,827		82,900	333,029	415,929	12,428,553	12,012,624
Kentucky	KY	20,768,670		223,700	491,000	714,700	17,653,369	16,938,669
Louisiana	LA	26,216,383	36,303,901	506,400	528,000	37,338,301	22,283,925	(15,054,376)
Maine	ME	6,275,475	651,882	60,000	222,813	934,695	5,334,154	4,399,459
Maryland	MD	22,457,578		657,300	411,148	1,068,448	19,088,942	18,020,494
Massachusetts	MA	26,298,864	56,727,624	1,278,000	636,406	58,642,030	22,354,035	(36,287,995)
Michigan	MI	32,592,996	5,367,104	1,731,100	794,000	7,892,204	27,704,046	19,811,842
Minnesota	MN	23,042,805		669,400	451,168	1,120,568	19,586,384	18,465,816
Mississippi	MS	14,623,791		103,000	434,000	537,000	12,430,222	11,893,222
Missouri NB		8,340,460		107,800	265,000	372,800	7,089,391	6,716,591
Nevada	NV	5,894,488		85,900	171,673	257,573	5,010,315	4,752,742
New Hampshire	NH	4,638,608	921,000	60,000	195,540	1,176,540	3,942,817	2,766,277
New Jersey	NJ	39,326,047		40,000	734,560	774,560	33,427,140	32,652,580
New Mexico	NM	9,132,873		100,000	208,492	308,492	7,762,942	7,454,450
New York	NY	61,324,085	258,823,677	6,342,600	1,680,000	266,846,277	52,125,472	(214,720,805)
North Carolina	NC	34,986,926		358,700	624,000	982,700	29,738,887	28,756,187
North Dakota	ND	4,424,548		60,000	178,721	238,721	3,760,866	3,522,145
Ohio Total	OH	52,624,240	11,347,500	1,677,500	963,000	13,988,000	44,730,604	30,742,604
Oklahoma	OK	22,508,639		245,700	416,000	661,700	19,132,343	18,470,643
Oregon	OR	15,271,860	19,000,000	365,600	333,623	19,699,223	12,981,081	(6,718,142)
Pennsylvania	PA	53,681,772	114,412,591	2,635,600	1,193,631	118,241,822	45,629,507	(72,612,315)
Puerto Rico	PR			418,500	605,000	1,023,500	0	(1,023,500)
Rhode Island	RI	4,041,598		209,000	214,361	423,361	3,435,358	3,011,997
South Carolina	SC	18,932,472		198,900	377,000	575,900	16,092,601	15,516,701
South Dakota	SD	4,183,977		40,000	189,000	229,000	3,556,381	3,327,381
Tennessee	TN	29,032,540		446,800	548,000	994,800	24,677,659	23,682,859
Texas	TX	101,578,050	72,733,300	2,657,900	1,189,000	76,580,200	86,341,342	9,761,142
Utah	UT	8,350,280		193,900	201,088	394,988	7,097,738	6,702,750
Vermont	VT	2,818,121		20,000	165,471	185,471	2,395,403	2,209,932
Virginia	VA	30,728,322		408,700	510,000	918,700	26,119,074	25,200,374
Washington	WA	22,759,029	19,999,998	663,100	425,126	21,088,224	19,345,175	(1,743,049)
Washington, DC	DC	2,025,709		1,018,100	189,000	1,207,100	1,721,852	514,752
West Virginia	WV	9,634,636		88,000	321,000	409,000	8,189,441	7,780,441
Wisconsin	WI	24,069,897		624,800	507,326	1,132,126	20,459,413	19,327,287
Wyoming	WY	4,456,952		40,000	150,215	190,215	3,788,409	3,598,194
Virgin Islands					133,000	133,000		(133,000)
American Samoa					50,608	50,608		(50,608)

DEPARTMENT OF TRANSPORTATION, URBAN MASS TRANSPORTATION ADMINISTRATION—Continued

State	ST	1985 gas tax cont.	1985 section 3				85 percent minimum allocation	Difference
			Bus, rail, new starts	Planning	16B2	Total		
N. Mariana					50,318	50,318		(50,318)
Guam					131,000	131,000		(131,000)
Total		1,213,700,000	935,155,408	40,000,000	26,235,329	1,001,390,737	1,031,645,000	30,254,263

The PRESIDING OFFICER. The Senator from New York.

Mr. SYMMS. I thank the Senator very much.

Mr. D'AMATO. Mr. President, I believe we can accomplish the goals of both the majority and of the ranking members of the Environment and Public Works Committee in terms of passing a highway bill. I am confident that we can pass a bill that will not impede the development of our roads, and that will provide the necessary $52 billion. I do not know of any Senators on this floor, any of my colleagues who have raised certain concerns, who would object to the highway bill, save this one point. I do not think we should attempt, in the relatively few short hours that remain to decide this point with respect to a complex formula which is absolutely crucial to our States. Thus, I renew my offer. My offer is simply this. I would agree to proceed with the bill provided that there is a unanimous-consent agreement that no amendments dealing with the reallocation of the mass transit account of the highway trust fund for highway projects would be in order.

That is the only condition I have. I would then go to an up-or-down vote on the bill, as well as on any other amendments that may be offered. My colleague from Illinois is indicating the same position. But let me tell you, when we talk about fairness, we have had mass transit funds reduced year after year. We are struggling to keep aging systems safe and operational. This 1 penny was set aside for mass transit. It was not set aside to be used by all of the individual States on a per capita basis, or for highway projects. It was created to serve mass transit needs. If the States of Wyoming, Montana, Idaho, or Nevada have mass transit needs, they are eligible for it—not for their highway needs, but for their mass transit needs. One penny out of nine pennies is precious little for those urban centers that are plagued with many problems besides transportation needs. Mass transit is an absolute necessity in order to sustain a quality way of life in densely populated urban areas. It is a necessity for our rural transit riders too. Urban and suburban commuters, and our urban centers depend on transit. It is not inconsequential to the lives of suburban commuters in the outlying areas in Illinois, for the lives of suburban commuters in New Jersey, and certainly not for the lives of suburban commuters in Westchester and Long Island in New York. If we want to be fair and want to move this bill, I venture to say that we could pass this bill within an hour, with one proviso—this objectionable amendment should not be in order. This Senator does not want to be accused of impeding the highway bill. Let me say for the record, I am ready to vote on the highway bill. But, we should not be offering amendments that would tear apart the fabric of well-established principles and agreements. I do not object to farm aid that is perhaps allocated in a disproportionate sense in terms of per capita aid to States. I am for it because that is where the need is. It would be silly for this Senator to say New York has 17 million residents; consequently, we want a certain proportion of farm aid per capita. It is not the way it works. This is mass transit aid. We have the transit needs. Consequently, these dollars that have been allocated for that specific program should be allowed to flow to it. I think it sets a very dangerous precedent when we begin to decide who would get more or less, when we begin to undo well-established principles of meeting national needs. So I say to my colleague—and I understand his valiant attempt to fight for what he perceives to be equity and fairness—let us allow the bill to go forward. I have made, I think, an offer that can be taken up in good faith. We could proceed with this bill. We can look at the transit formulas at another time. But certainly this is not the time to undertake it.

I yield the floor.

Mr. SYMMS. Will the Senator yield? I would think that we do need to make it clear for any of our colleagues who may be listening or watching this debate, that this amendment which my good friend from New York is talking about, is not in this bill. We took it out in the committee.

Mr. D'AMATO. I understand that. Let me clarify my point.

Mr. SYMMS. We took it out, and if the Senator is very persuasive in his argument the Senator may win it. But I plan to offer an amendment—when we get to the bill, I plan to offer an amendment to relax the 55-mile-per-hour speed limit.

Mr. D'AMATO. I have no objection to that amendment being offered.

Mr. SYMMS. And my good friend from New Jersey has some very strong viewpoints that the 55-mile-per-hour speed limit is appropriate for his part of the country. I think we have to vote on these issues.

Mr. D'AMATO. Let me respond again so it is quite clear. I do not want to be accused for holding up the highway bill. Indeed, I am ready to assent to any reasonable time agreement. Some other Member of the Senate may or may not agree. As far as this Senator is concerned, we can vote on this bill, with my one caveat. I would like a unanimous-consent agreement that would provide that no amendment dealing with the reallocation of the mass transit accounts of the highway trust for highway projects would be in order. Otherwise, I would object—a right which we have as Senators—to a unanimous-consent agreement constraining us or precluding us from full and free debate. I feel I have to debate on behalf of the constituents of New York, as the Senator from Illinois and the Senator from New Jersey are compelled to do for their constituents. That is what we are talking about. We are being asked to give up our rights to total, free debate on the condition that we proceed under a time agreement? Yes, I do, provided that there will be no amendments put forth in the area of reallocation of mass transit funding for highway projects.

□ 1440

Mr. LAUTENBERG. Mr. President, I should like to try to clarify my position.

The PRESIDING OFFICER. The Senator from New York has the floor. Does the Senator yield?

Mr. D'AMATO. I yield for a question.

Mr. LAUTENBERG. I thank the Senator from New York and the Senator from Idaho.

What we are discussing now, as I think the distinguished Senator from New York clearly stated, is the process, the procedure, of how we move with this. I think we got slightly sidetracked when we discussed the specifics of the amendment, because that is not for the period of time reserved for this discussion.

I ask that the Senator from Idaho remember clearly that this provision was stricken from the highway bill before it was released from the committee. That sets a particular tone.

I could not agree more with the comments made by my colleague from New York, to say that I, too, as a member of that committee, as someone who helped negotiate the bill finally passed by the committee, have no objection to the highway bill. We want it discussed and debated and we want a vote on it quickly.

I do have additional concerns. One is the proposition made by the Senator from Idaho, to which I severely object: Absolutely, under no condition would I agree to a time limit that includes that amendment. I have a couple of other concerns.

The Senator from Idaho said in the discussion that I objected to an amendment on the 55-mile-an-hour speed limit. I do. But I do not object to it being debated fully here, given enough time so that all people concerned can express their views.

If this amendment to redistribute the mass transit money comes about, it will need a long time to discuss. I am told by my colleague from Illinois that it could take many days to discuss this fully.

Mr. DIXON. Perhaps weeks.

Mr. LAUTENBERG. Perhaps weeks. We would like to be out of here by October 3.

On the serious side, the fact is that I would object to any time agreement that includes a redistribution formula for mass transit.

I have a couple of amendments that I would like to bring up—one of them, I think, without any objection—but we will have to find out from the chairman of the committee, who is here now.

Let it not be misunderstood that this Senator and the 15 colleagues who joined me in signing the letter urging that this change not be made feel the same way about the Symms amendment.

I ask unanimous consent to have our letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 11, 1986.

DEAR COLLEAGUE: The Senate will soon consider S. 2405, the Federal-Aid Highway Act of 1986. At that time, Senator Symms will offer an amendment which would fundamentally change the manner in which mass transit assistance is distributed to the states. It is our intention to vigorously oppose this amendment.

Under current law, one cent of the federal excise tax on gasoline is reserved for mass transit. This "penny for transit" provision was adopted in 1982 as part of the Surface Transportation Assistance Act of 1982. The distribution of these funds comes from Section 3 of the Urban Mass Transportation program. Section 3 is a discretionary program with the distribution of funding determined by the Secretary of Transportation.

The Symms amendment would require that each state, regardless of its mass transit needs, receive 85% of its contribution to the Mass Transit Account of the Highway Trust Fund. Its sponsors argue that the amendment is simply an extension of the 85% minimum allocation provision incorporated in the highway program. That is not the case.

The 85% minimum allocation in the highway program does not take funds from one state to give funds to another. Funds to cover the 85% minimum allocation in the highway program come from a special pot and are not taken out of other states' allocations. The Symms amendment takes funds dedicated to mass transit from transit-dependent states and redistributes them to states without transit needs. Further, it allows those funds to be used for highways.

If the Symms amendment becomes law, there will no longer be a "penny for transit". That program will be destroyed. The progress made in 1982 in striving for a balanced national transportation network will suffer a severe setback. We believe that 1986 is the time to improve the landmark legislation passed in 1982. This is not the time to turn back the clock on federal transportation policy.

During markup of S. 2405 in the Environment and Public Works Committee, a provision requiring that each state, regardless of its mass transit needs, receive 85% of its contribution to the Mass Transit Account of the Highway Trust Fund was dropped from the bill. It was ngted that the committee with jurisdiction over this subject is the Committee on Banking, Housing afd Urban Affairs. The Bankifg Committee has not recommended this drastic departure from current law.

We appreciate the concern expressed by some states that the mass transit needs of small afd rural communities are not being adequately eet by the current Section 3 program. Recommendations have been made to address this concern, but the Symms amendment is the wrong way to go about it.

The Symms amendment threatens to destroy federal mass transit programs and ignores the fact that different states have different transportation needs. It ignores the fact that many of the states which benefit from the "penny for transit" are donee states to federal highway programs, and subsidize highway construction in highway dependent states. If adopted, it could erode support for federal highway programs. It also threatens to delay the reauthorization of the federal-aid highway program. We support the reauthorization of the highway program and want to see a highway bill enacted as quickly as possible.

If the Symms amendment is offered to the highway bill, it is our intention to fully debate the measure to insure that the Senate has a complete understanding of its history, purpose and impact on federal transportation policy. We hope you will join us in this effort. If you have questions about our effort, please feel free to call us or have your staff call Tom Howarth at 49712.

Sincerely,

Slade Gorton, John C. Danforth, Bill Bradley, Frank R. Lautenberg, Daniel P. Moynihan, Paul Simon, Thomas F. Eagleton, Arlen Specter, Paul S. Sarbanes, Alan Dixon, John F. Kerry, Alfonse D'Amato, Edward M. Kennedy, Alan Cranston, Sam Nunn.

Mr. DIXON. Mr. President, will the Senator yield?

Mr. LAUTENBERG. I am happy to yield.

Mr. DIXON. Mr. President, I thank my distinguished colleague from New Jersey for his statements. I ask him whether he thinks that what he has expressed and what the Senator from New York and others have expressed is fairly similar—that none of us would object to taking up the highway bill, and we are all anxious to vote on the highway bill, and we are not objecting to taking up the question of the 55-mile-an-hour speed limit, so long as there is a substantial time agreement that gives everybody a chance to be heard on that issue. But we do object to taking up the question of formula changes with respect to mass transit. So far as that is concerned, we would want to be heard at great length and would not give up our opportunity to be heard on the question.

Mr. LAUTENBERG. The Senator from Illinois is correct.

Mr. DIXON. I say this on behalf of the Senators from Pennsylvania who were here earlier and left; on behalf of the Senators from New York, Massachusetts, New Jersey, Illinois, California, and others similarly situated. All of us would be similarly situated.

I see the distinguished chairman of the committee in the Chamber, and I say to my friends that they may want to discuss the question of bringing up the highway bill. We would be willing to agree to a time limit on the 55-mile-an-hour issue, but we are not willing to agree to any kind of consideration of this bill unless a unanimous-consent agreement would obviate consideration of basic changes in the formula.

The PRESIDING OFFICER. Does the Senator from New Jersey yield the floor?

Mr. LAUTENBERG. I yield the floor.

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. SYMMS. Mr. President, a parliamentary inquiry. How much of the 1 hour remains to discuss reservations?

The PRESIDING OFFICER. It is 14 minutes.

Mr. SYMMS. Mr. President, I appreciate the candor, frankness, and forthrightness of all my colleagues on the floor. I think my colleagues have made it very clear that they recognize that there probably are more votes for the so-called fair share amendment in this body than there are not. They are demonstrating their abilities and their rights as Senators to protect what they consider an important issue, and I respect them for that.

I ask my colleagues from New York and New Jersey—the Senator from New York is off the floor now—if there is any way we might proceed and have unanimous consent that no amendments with respect to mass transit be in order, for a time certain, and see if we can move ahead with this

bill and get the debate in, and get all the noncontroversial issues settled.

Some of the amendments that have been proposed are controversial, but we could bring them up and vote on them and get part of this done, so that by Monday, if necessary, we could reach some kind of agreement and finish the bill, if that is possible.

Maybe we need a quorum call to discuss the issue.

Mr. LAUTENBERG. Mr. President, if I may respond, I think it is fair to say that we who object—and I am speaking for myself—to this proposal to review the change of formulas as part of this package feel that it is absolutely unacceptable. We consider this a total unit, since that is the way it is proposed. If we could agree that perhaps on another vehicle or another opportunity the Senator from Idaho could bring up his proposal, we would have no objection. But the highway bill as proposed, with the amendment of the Senator from Idaho, would be part of a total package. Because of that, I think it is fair to say that I and my colleague from Illinois would absolutely object to the matter being brought up.

Mr. DIXON. I suggest this possibility to my distinguished colleage from Idaho: I think the Senator from New Jersey would have no objection, nor would the others, including the Senator from New York, if our aides, who are on the floor, might discuss a unanimous consent-agreement. We are willing to enter into a unanimous-consent agreement, but not the kind the Senator is suggesting. What we would agree to are the general parameters of it.

We are wasting our time, because we would be anxious to accommodate the Senator on a unanimous-consent agreement that would dispose of this measure and let him visit some of the issues he would like to visit, as long as we are able to confine the issues to the parameters we have already suggested. I think it would be in the interest of my friend from Idaho and the distinguished managers and the distinguished chairman of the committee and others to let our aides discuss a unanimous-consent agreement.

In the meantime, I am compelled to object to the original request of the majority leader and my distinguished friend from Idaho to take up Calendar No. 870 at this time.

The PRESIDING OFFICER. Objection is heard.

Who yields time?

Mr. SYMMS. Mr. President, I ask unanimous consent to use 2 minutes from the bill for the majority.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

□ 1450

Mr. SYMMS. Mr. President, I think that we have probably come as far as we can on this approach. Hearing the objection of my friend from Illinois, and I respect him for that, I think that we might point out here to our colleagues, and my good friend made reference to the fact we do not want to waste our time here, I want to make it very clear I want to get this highway bill acted on in the Senate and get to conference with the House. But I just want to say to my colleagues and to those who are also equally interested in passing the highway bill that if we cannot address the fair share amendment now, maybe we can work an accommodation in some other vehicle where it will be appropriate to discuss it in this Senate.

Maybe if that is what we have to do we will see what can be accommodated.

I am willing to go back and sit down in the Cloakroom.

Mr. DIXON. If my friend will yield, I am embarrassed that I cut him off.

Mr. SYMMS. I understand.

Mr. DIXON. I did not mean to deprive my colleague of his time.

Mr. SYMMS. No apologies are necessary.

We are running on the same time clock. The Senator made his position clear and I respect him for that.

I say there is one other problem here. Of the States, 12 receive these funds and 38 States fall on the short end of the stick.

If you take the same formula or the House formula on the highway dollars and the 8 cents, and if we go to conference with the other body, and are not able to negotiate a formula that will seem to be fair to these other 38 States, Senators that come from States that have a greater geographic area with less people, we will have a hard time getting a highway program also.

As I said, none of us believe that we were ever going to come back from a conference with what we asked for. But there is a problem here that the Senators who are lodging objections today happen to be in the position where their constituents would favor the formula that is in the House which is totally unacceptable to the Senators from the Plains States and in the Western Rocky Mountain States where we have huge geographical areas and fewer people and further distances for people to travel.

So I think maybe something can be accommodated here, and I think we should move forward on the highway bill. I believe now maybe would be the time for all parties to see what we can work out and get the majority leader and the minority leader and work out something.

If it is possible what I would like to see us do is work out some other agreement. Maybe it would be some other place that would be appropriate. There are those of us who feel the allocation of 1 cent that goes to mass transit is not fair, and others feel it is fair. Some accommodation could be made at another place, but we should move this highway bill because I think it is more important to commerce, to business, and to the economy of the American people, that we have a continuous Federal-aid highway program without work stoppages or slowdowns, so we can fix roads and maintain the safety program and the bridge program.

FEDERAL AID HIGHWAY ACT OF 1986

● Mr. HEINZ. Mr. President, I rise in strong opposition to Senator SYMMS' amendment regarding use of the mass transit penny for highway purposes. First, this amendment would mark a significant departure from the spirit of cooperation that resulted in the passage of the Surface Transportation Assistance Act of 1982, which required that 1 cent of the 5-cent increase in the gas tax be dedicated for mass transit purposes.

Second, this amendment would result in a significant windfall to many States that already receive more than their fair share of highway funds. Third, this amendment shows a compete disregard for mass transit needs in this Nation, which are glaring, and a disregard for our national transportation system, which includes mass transit as well as highways.

I plan to oppose this amendment when it is offered, and I would also consider offering an amendment to achieve real fairness in the distribution of highway trust fund moneys. My amendment would limit the amount of highway funds each State may receive in a given year to 150 percent of that State's gas tax payments in that year. Mr. President, I ask that the following table showing the impact that my amendment would have on State highway funding be printed in the RECORD.

I urge my colleagues to oppose the Symms amendment, and to support my amendment to provide equity in the distribution of all of our Federal highway funds.

COMPARISON OF ESTIMATED APPORTIONMENTS UNDER S. 2405 FOR FISCAL YEAR 1987 WITH PROPOSAL TO LIMIT A STATE'S APPORTIONMENTS TO 150 PERCENT OF THAT STATE'S HIGHWAY TRUST FUND CONTRIBUTIONS

[In thousands of dollars]

	S. 2405	Proposed 150 percent limitation	Differnce
Alabama	229,151	242,368	13,217
Alaska	154,170	49,359	−104,811
Arizona	128,866	102,948	−25,918
Arkansas	140,142	146,609	6,467
California	969,268	1,022,196	52,928
Colorado	188,786	199,675	10,889
Connecticut	246,175	216,466	−29,709
Delaware	50,687	53,611	2,924
District of Columbia	68,492	32,123	−36,369

COMPARISON OF ESTIMATED APPORTIONMENTS UNDER S. 2405 FOR FISCAL YEAR 1987 WITH PROPOSAL TO LIMIT A STATE'S APPORTIONMENTS TO 150 PERCENT OF THAT STATE'S HIGHWAY TRUST FUND CONTRIBUTIONS—Continued

[In thousands of dollars]

	S. 2405	Proposed 150 percent limitation	Differnce
Florida	501,049	529,949	28,900
Georgia	332,259	351,095	18,836
Hawaii	140,487	45,622	−94,865
Idaho	88,134	74,047	−4,087
Illinois	369,042	390,328	21,286
Indiana	275,075	286,271	11,198
Iowa	164,107	173,572	9,465
Kansas	147,083	155,566	8,483
Kentucky	209,100	221,161	12,061
Louisiana	321,534	340,079	18,545
Maine	59,862	63,198	3,336
Maryland	265,751	281,079	15,328
Massachusetts	312,671	330,705	18,034
Michigan	306,049	323,702	17,653
Minnesota	231,831	245,202	13,371
Mississippi	138,128	145,250	7,122
Missouri	261,251	274,954	13,703
Montana	108,971	94,816	−14,155
Nebraska	105,257	111,328	6,071
Nevada	73,096	77,312	4,216
New Hampshire	56,095	59,331	3,236
New Jersey	337,395	356,856	19,461
New Mexico	106,362	112,497	6,135
New York	615,858	651,379	35,521
North Carolina	319,387	332,701	13,314
North Dakota	75,528	79,529	3,001
Ohio	466,220	486,845	20,625
Oklahoma	181,636	190,117	8,481
Oregon	137,701	145,643	7,942
Pennsylvania	504,889	534,010	29,121
Rhode Island	95,915	58,951	−36,964
South Carolina	165,478	174,138	8,660
South Dakota	82,992	75,300	−7,692
Tennessee	270,974	284,302	13,328
Texas	927,415	966,736	39,321
Utah	140,661	123,645	−17,016
Vermont	54,253	37,315	−16,938
Virginia	280,977	297,183	16,206
Washington	264,471	170,728	−93,743
West Virginia	99,444	105,180	5,736
Wisconsin	213,732	223,115	9,383
Wyoming	83,974	84,949	975
Puerto Rico	62,206	0	−62,206
Total	12,131,037	12,131,041	

Mr. SYMMS. I do not have anything else to say, Mr. President. Unless the Senator is seeking recognition, I am prepared to put in a quorum call at this point.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1520

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Madam President, let me indicate to my colleagues that we have no activity on the floor, but there is a lot of activity off the floor in trying to work out something on reconciliation. There has been a series of meetings involving Members on both sides and key players in the budget process.

It is my view, and I have just discussed it with the distinguished minority leader, that they are making progress. It would seem to me rather than just extending the quorum call with the time to be charged equally, that we might stand in recess.

Could I ask how many hours remain on the reconciliation statutory time limit?

The PRESIDING OFFICER. There are 6 hours 50 minutes for Senator DOMENICI, and 8 hours 3 minutes for Senator CHILES.

ORDER FOR RECESS FOR 2 HOURS

Mr. DOLE. Madam President, I ask unanimous consent that following the remarks of the distinguished Senator from New Mexico, as in morning business, that the Senate stand in recess for 2 hours, and that the time continue to run on the reconciliation bill and be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BINGAMAN at this point relating to the introduction of legislation are printed under introduced bills and joint resolutions in routine morning business.)

RECESS UNTIL 5:25 P.M.

The PRESIDING OFFICER. If there is no further Senator wishing to be heard, the Senate will stand in recess for 2 hours.

Thereupon, at 3:25 p.m., the Senate recessed until 5:25 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ANDREWS).

□ 1725

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of North Dakota, suggests the absence of a quorum, with the time to be charged equally to both sides. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1800

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from New Hampshire.

MR. REAGAN, WHERE ARE YOU WHEN WE NEED YOU?

Mr. HUMPHREY. Mr. President, inasmuch as the Senate is at a pause in its business, I thought I might improve upon the occasion by reading into the RECORD a very interesting and appropriate editorial published today in the Manchester Union Leader, the largest paper in the State which I represent, an editorial written by the publisher, Mrs. William Loeb.

□ 1810

It is entitled:

[From the Manchester Union Leader (NH), Sept. 18, 1986]

MR. REAGAN, WHERE ARE YOU WHEN WE NEED YOU?

Ronald Reagan, where have you gone?

We know who you are, or at least who you were when we elected you in 1980 and again, overwhelmingly, in 1984. You are the one who called the Communists the "most dangerous enemy known to man."

You are the man, in 1975, who said, "Maybe . . . we simply do what's morally right. Stop doing business with them. Let their system collapse."

You are the one who correctly called the Soviets the evil empire and who threw them out of Grenada.

Where have you gone, Ron? Your administration has managed to push through a plan to sell sophisticated military equipment to the Chinese Communists. It is your administration that is agreeing to a subsidized grain sale to the Soviets and we can bet that U.S. wheat will make Russian bread to feed their armies in Afghanistan.

For six years, you have abided by the SALT II treaty in the face of their cheating and our being weakened as a result. Under your administration last year, our foreign aid program provided more than $300 million in direct aid to Communist countries and helped them more by financing them through the World Bank and the International Monetary Fund to the tune of another $6 billion.

And there now seems to be a willingness in your administration to make a deal to turn over an innocent man, framed in Moscow, in exchange for a likely Soviet spy.

Mr. Reagan, where have you gone? We have heard enough from unnamed sources and meassages from faceless Washington figures, in and out of the White House.

We have heard enough from the liberal news media, who are more afraid of abandoning a summit than in abandoning American citizens. It is time we heard from you.

Don't confuse us, Mr. Reagan. We don't want the one who is now perceived by the public—the one who will swallow his indignation and do anything to keep a summit meeting on the calendar.

We want the Ronald Reagan for whom we voted, the one who would have demanded that American citizen Daniloff be returned within 24 hours or we'd throw out the Soviet ambassador to the U.S. We want the Reagan who would not shame this country by making deals with Communists.

We want the Ronald Reagan in whom we believed as a leader against the forces of the Kremlin, who would make us their slaves.

Ronald Reagan, the real Ronald Reagan, where are you when we need you?

To that, Mr. President, I would only add "amen."

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I further ask unanimous consent that I may speak as if in morning business.

The PRESIDING OFFICER. Does the Senator indicate any length of time as to how long the Senator's request pertains?

Mr. MELCHER. Mr. President, I would like to speak for 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator may proceed.

Mr. MELCHER. I thank the Chair.

FOOD ASSISTANCE TO THE PHILIPPINES

Mr. MELCHER. Mr. President, on this day that we received an address from President Corazon Aquino in the House in a joint session, I thought it would be appropriate to renew my efforts to provide additional assistance over and above what we are doing for the Philippines, and what we may be able to add in assistance to the Philippines by providing some of the commodities, food commodities, that are owned by the United States, owned by the Commodity Credit Corporation, have been purchased under the various farm programs, and are in Federal storage.

□ 1820

To help that effort along, I sent a letter to each of my colleagues, to every Senator, stating my intentions to do so at the first opportunity.

Mr. President, that letter is now in the office of each Senator. I would like to first of all read the letter in its entirety and then make a few comments on it.

The letter reads as follows:

U.S. SENATE,
September 18, 1986.

DEAR COLLEAGUE: President Corazon Aquino of the Philippines will likely conclude her visit to the United States with little or no additional aid to assist her economically depressed country at a time when the Filipino people's needs are most crucial. That need not be the case, because the Philippines is the ideal country to profitably utilize large quantities of U.S. surplus commodities already burgeoning our federal storage.

Wheat and soybeans are not produced in the Philippines and dairy production is minimal. These commodities are urgently needed. While we are financially unable to provide the cash assistance that the Filipinos need, a portion of these commodities could be readily monetized on the Philippine market providing the basic economic stimulus so critical to the start of their economic recovery.

I shall offer an amendment at the first opportunity to donate to the Philippines 1 million metric tons of wheat, 45 million pounds of dried powdered milk, 80 million pounds of cheese, 40 million pounds of butter and 40 million bushels of soybeans, through a combination of Public Law 480, section 416 and section 108.

This donation to the Philippines will be out of Federal stocks already acquired by the Commodity Credit Corporation and, therefore, the transaction is off-budget.

There are three basic reasons why I believe we should favorably consider my proposal:

(1) The economic conditions of the Philippines are most critical and without prompt help from the United States their economy will dangerously deteriorate week by week, leading to massive suffering of the Filipino people and instability to their government and entire economic structure.

(2) The Communist Movement of the New People's Army will broaden its base and influence among Filipino people, gaining more followers and more public support as production, jobs and food availability deteriorate.

(3) Our own economy here in the United States requires an expansion of our exports and particularly agricultural surplus commodities. There is no better country with which to build potential trade and barter than with our long-time allies, the Philippines.

This is an urgent matter that needs our prompt attention and action to cement the ties that bind our two countries in friendship, democracy and strategic military alliance. It must be done now—waiting even a few months will risk grave and irreparable damage to the Filipino people and their new government. I urge favorable consideration, and if you have questions or wish to cosponsor my amendment please call Dave Voight at Ext. 46944, Wayne Mehl at Ext. 44234 or Karen Dorsey at Ext. 42648.

Sincerely,

JOHN MELCHER.

Mr. President, there are several points that I could add to this.

First of all, it is my understanding that the House just today took up and passed an urgent supplemental appropriations bill, which would give $200 million in additional cash to the Philippines. We will soon be considering that bill here in the Senate. It is at that time when I would like to have consideration of this amendment.

This amendment will do some additional good for the Filipino people. It will do a lot. It will provide some food for a great number of the 55 million Filipinos who are underemployed or unemployed and they are hungry.

It will provide that some of the commodities can be sold on their market there and the money from the sale of those commodities to be used for grassroots reconstruction of an economy that has deteriorated very badly.

What does it amount to in total dollars, that is, in dollar values? It is over $500 million in commodities. It is a substantial amount of commodities.

All these commodities have been paid for and are in Federal ownership now. This is just a small portion of the dairy products, the wheat and soybeans in Federal ownership now where we pay out of the Treasury the storage costs.

So it will do us some good to reduce our surplus.

All of this is off budget. It has no budgetary impact. We have already spent the money for it. We are now paying storage costs on it.

The fact is that commodity after commodity, all of these various commodities I have named which are involved in the amendment, have sinking prices simply because there is too much surplus.

That would be advantageous for us, to make these donations to the Philippines. It will start a revival of moving the surplus commodities now in Federal storage out to people who can use them and put them to use for which our farmers produced them, for people who need them and who are hungry. It will increase our exports. It will lessen our storage costs. And in the long run it helps to develop additional markets for our commodities.

I do not think we can afford not to do it. I think it is imperative that we do it. We need to do it for the sake of our friendship, for our allies, the Philippine people.

We need to do it for our own sake, to put to good use those commodities produced by our farmers which are now in Federal storage doing no one any good but still draining from the Treasury the cost of storage.

Mr. President, I have one last point. This makes common sense to me, and I believe it makes common sense to the great majority of this Senate. We earlier tried a small package for the Philippines along the same lines last May. It was rejected. The opposition came from the Agency for International Development [AID]. That part of the State Department advised us then, in May, that they wanted to assess what the true needs of the Philippine people were in food commodities. That was last May.

□ 1830

This is September. We are going to adjourn very shortly, perhaps in 2½ weeks. If we are going to do anything about it this year, it is imperative we do it now. Whether or not the Agency for International Development has made their assessment, I do not know. But I believe we have made our assessment and we have heard from President Aquino today. We know what is needed. Part of it is food. Part of it is money. This amendment will provide food; it will provide the opportunity to sell part of the food on the market there to raise additional cash to help in the economic revival of the Philippines. I hope the amendment can be accepted when it is offered.

Mr. President, I yield the floor, but before I do I believe I should suggest the absence of a quorum, with the time equally divided.

The PRESIDING OFFICER. Without objection, the quorum will be charged on the same basis as previously entered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1920

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. HECHT). Without objection, it is so ordered.

BILL HELD AT DESK—H.R. 4899

Mr. HELMS. Mr. President, I ask unanimous consent that once the Senate receives from the House H.R. 4899, the process patent bill, it be held at the desk pending further business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSFER OF CERTAIN AIRPORT PROPERTY IN ALGONA, IA

Mr. BYRD. Mr. President, on behalf of Mr. HARKIN, I ask that H.R. 4492, which is at the desk, be read the first time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4492) to permit the transfer of certain airport property in Algona, Iowa.

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 4492 be read the second time.

Mr. HELMS. Mr. President, under the rule XIV process, I object.

The PRESIDING OFFICER. Objection is heard.

AMENDMENT TO THE FEDERAL AVIATION ACT OF 1958

Mr. BYRD. Mr. President, on behalf of Mr. EAGLETON, I ask that a message from the House which is at the desk, H.R. 4838, be read the first time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4838) to amend section 408 of the Federal Aviation Act of 1958 to ensure fair treatment of airline employees in airline mergers and similar transactions.

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 4838 be read the second time.

Mr. HELMS. Mr. President, under the rule XIV process, I object.

The PRESIDING OFFICER. Objection is heard.

NATIONAL PHILANTHROPY DAY

Mr. HELMS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Joint Resolution 207.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 207) entitled "Joint resolution to designate November 1, 1985, as 'National Philanthropy Day' ", do pass with the following amendments:

Page 2, line 3, strike out "November 1, 1985,", and insert: *November 15, 1986.*

Amend the title so as to read: "Joint resolution to designate November 15, 1986, as 'National Philanthropy Day'.".

Mr. HELMS. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table is agreed to.

HUMAN SERVICES REAUTHORIZATION ACT—CONFERENCE REPORT

Mr. HELMS. Mr. President, I submit a report of the committee of conference on H.R. 4421 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4421) to authorize appropriations for fiscal years 1987, 1988, 1989, and 1990 to carry out the Head Start, Follow Through, dependent care, community services block grant, and community food and nutrition programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 12, 1986.)

Mr. HATCH. Mr. President, I am pleased to speak in support of the conference agreement on H.R. 4421, the Human Services Reauthorization Act of 1986. The individual programs bundled in the reauthorization share common objectives. They focus on the community, provide flexible and cost-effective assistance to low-income individuals and families.

This act as conferenced with the House incorporates provisions that were included in several Senate bills sponsored and cosponsored by Members of the Senate including S. 2080, S. 804, and S. 2389. This reauthorization legislation was developed by Senator HAWKINS and the Subcommittee on Children, Family, Drugs, and Alcoholism, following hearings on the principle provisions. The broad bipartisan support for this legislation is indicative of its importance in assisting people to develop their potential and move toward self-sufficiency.

I believe we are all well acquainted with the Head Start Program for it has had a 20-year history of success. The Reauthorization Act makes some adjustments to the funding levels for Indian and migrant programs and the agreed upon increase for Head Start is 5.5 percent.

The conference agreement accepts the Follow Through Program reauthorized at $7.5 million but included an amendment to emphasize that application for new Follow Through projects are to be competitively reviewed and awarded.

The Dependent Care Program Act, was accepted by the House at a funding level of $20 million annually for 4 years. I have particular pride in this provision for I do believe that once we get the appropriated money flowing to the States it will begin fostering more child care programs. It is indeed a small amount; but it is an important program in helping families find and have the care they need for their children.

Changes in the community services block grant includes regulating the process for termination of funding to community action agencies, and clarification as to what types of projects the Secretary is authorized to fund from the discretionary fund. The Senate provision which authorizes demonstration projects for new and innovative approaches to reduce poverty was accepted by the House. In addition the act authorized a new program providing for a partnership between the Federal program and State programs.

The House also accepted the Senate program which provides for a Child Development Associate Scholarship Act Program. This program will assist low-income individuals in obtaining certificates as child care providers. I am pleased that the Senate appropriations bill includes funding for this new program. It too will go a long way in helping with the child care crisis our country is currently facing.

The changes in the Low-Income Home Energy Assistance Program include language to clarify congressional intent that neediest households receive the maximum assistance along with perfecting language to add administrative flexibility.

Mr. President, this legislation is supported by virtually every constituent group concerned with children programs and community service. I want to add my thanks to Senator HAWKINS, and to our other Senate colleagues and there staff for their work and effort in preparing this reauthorization legislation. I want to especially recognize Robin Rushton, counsel to

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Senator HAWKINS, for her time and knowledge. She is an asset to the entire Senate.

Mr. President, it is my hope that all of my Senate colleagues will support the conference report.

Mrs. HAWKINS. Mr. President, I am pleased that we will be able to complete action on this important bill today. As finalized by the House-Senate conference on H.R. 4421, the Human Services Reauthorization Act of 1986 amends and extends the Head Start Act, the Follow Through Program, the Low-Income Home Energy Assistance Act, the Community Services Block Grant Act, the Dependent Care Act, and the Community Food and Nutrition Act. It is important for us to complete this conference and reauthorize these programs, because I understand that the House Appropriations Committee has a policy of not appropriating funds for expiring programs until they become public law. Therefore, it is essential that these programs be authorized before the Labor, HHS, Education appropriations bill goes to a House-Senate conference.

In reauthorizing the Head Start Program, the conferees authorized the program at $1,198 million for fiscal year 1987 which represents a $157 million increase over the current fiscal year. We have also agreed upon a 5.5-percent increase in Head Start funding for the succeeding fiscal years. We are concerned about the delays in receipt of funding awards for Head Start and direct the Secretary of Health and Human Services to distribute any appropriated funds for this prggram in a prompt manner. The conferees have reiterated their commitment that the definition of handicapped that is contaifed in the Education of the Handicapped Act should be utilized in determined chiddren who should be served under the 10-percent earmark contained in the Head Start Act.

The Follow Through Program was reauthorized at $7.5 million for fiscal year 1987 with a 4-percent increase in succeeding years. The Follow Through Program was amended to emphasize the competitive nature of the grant program and stress that the Department can consider applications other than existing grantees.

The House has accepted all the modifications to the State Dependent Care Programs Act, except the conferees agreed to authorize the funding for this program at $20 million annually for 4 years, instead of 3.

The community services block grant was reauthorized at a funding level of $391 million for fiscal year 1987 with a 5-percent increase in subsequent years. The conferees have accepted the Senate amendments on definition of eligible entity, termination procedures, fiscal evaluations, and discretionary authority. The House has also agreed to accept a Senate provision authorizing a demonstration project for development and implementation of new and innovative approaches to poverty. In the Rural Community Assistance Program, the conferees intend to provide a priority to community facility grantees under the rural housing and community facilities section of the discretionary fund. This is consistent with the explanatory notes of the conference report.

The Low-Income Home Energy Assistance Program was reauthorized at $2,050 million for fiscal year 1987 with a 4.5-percent increase in the succeeding years. The conferees have agreed to modify the energy crisis provisions in the LIHEAP Act to specify the components that must be included in a crisis intervention program to ensure a timely response to an emergency situation.

In addition to reauthorizing existing programs, the conference report on the human services reauthorization bill authorizes the funding of two new programs: a demonstration partnership agreement under the community services block grant addressing the needs of the poor and a Child Development Associate Scholarship Act Program which provides assistance to low-income individuals who are seeking their certificate in child-care training.

Mr. President, I would like to take this opportunity to thank my Senate colleagues and their able staffs for the assistance they provided during the consideration of this reauthorization legislation. All members of the Senate Labor and Human Resources Committee participated in the development of these bills but Senators HATCH, STAFFORD, QUAYLE, GRASSLEY, KENNEDY, DODD, and KERRY made special contributions in terms of their time and counsel during the consideration of H.R. 4421. Mr. President, I want to pay special tribute to a Senator whose contribution to this bill went far beyond the call of duty. The Senate version of the Human Services Reauthorization Act, S. 2444, was introduced for me during my recuperation from back surgery by the distinguished Senator from Vermont, Mr. STAFFORD. I thought the choice of Senator STAFFORD to introduce this reauthorization bill in my behalf was highly appropriate since few Members in the House or Senate have been as active in developing these programs than my able colleague from Vermont. His advice and counsel was sought after in the development of S. 2444 and he has continued to play a leading role throughout the development of this reauthorization legislation. He and his able staff provided invaluable assistance in drafting provisions which I believe enhance the effectiveness of these programs in serving low-income and disadvantaged populations.

Mr. President, I urge my colleagues to support this conference report.

Mr. STAFFORD. Mr. President, the conference bill provides for a 4-year reauthorization of four programs that serve our low-income and elderly citizens. The conference committee has provided for modest growth in the programs over the next 4 years even though we are painfully aware the need far outstrips the current level of appropriations for the programs.

Title I of the bill reauthorizes the Head Start Program for $1,198 million for fiscal year 1987. In fiscal years 1988-90 the authorization level would increase by 5½ percent each year.

For the past 20 years, Head Start has helped children who start life with the innumerable disadvantages that stem from poverty. It has given them the skills and confidence necessary to begin their school careers on more of an even footing with their more advantaged peers. The program's multifaceted approach to working with these children is ultimately sensible. Head Start youngsters not only participate in an education program but also are provided with health and nutrition services. Head Start staff work closely with families to help them overcome the problems which accompany poverty ranging from inadequate hgusing, poor health, and lack of a job to a basic lack of confidence in their own ability to help themselves.

Head Start's formula has worked well. Head Start children are less likely to be held back a grade or assigned to costly special education classes. Children in Head Start obtain markedly higher levels of health care than children not in the program, have fewer absences from school, and perform better on physical tests. In the program year 1983-84, 100 percent of children enrolled for 90 days or more completed medical screening, including all of the appropriate tests. Ninety-six percent of those identified as needing treatment received treatment. Ninety-five percent of the children were brought up to date in their immunizations.

Head Start also works for parents. Four out of five of Head Start children's parents are providing a volunteer service in the program. Thirty-one percent of the program's paid staff are parents of current or former Head Start children.

The conference bill will help to ensure that Head Start continues to effectively reach these children and their families. It allows programs the option of continuing to provide more than 1 year of a Head Start experience, guaranteeing that the most vulnerable children and families can receive enough support from the program to make a significant difference in their lives. The bill also ensures that funds will be available to train Head Start staff. Head Start like most child development programs must

cope with an extremely high staff turnover rate because of the low salaries it must pay its staff. Training is the key not only because of this type of turnover but also because of the strong role that parents play in the program. Finally, research has identified training as one of the key indicators of positive caregiver-child relationships.

The bill also guarantees that Federal funds will continue to support the Child Development Associate [CDA] Credentialing Program. This program encourages caregivers to improve their skills by seeking a competency-based credential. It is now recognized in over 30 States' child care licensing requirements. In addition to maintaining our previous investment in the CDA Program, this legislation authorizes a very modest but important new program which will provide funds for scholarships for the CDA credential to low-income applicants. This fund will provide an incentive for low-paid child care staff as well as Head Start caregivers to seek this skill building credential.

Mr. President, I would like to emphasize the conference report language that notes under current law at least 10 per cent of all enrollment opportunities in the Head Start Program must be available for handicapped children to meet their special needs. Handicapped children as defined by section 602(a)(1) of the Education of the Handicapped Act includes children who are mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children or children with specific learning disabilities who by reason thereof require special education and related services. Based upon the strong commitment displayed by Congress over the years to serve handicapped preschoolers through the Head Start Program, the conferees have strongly reiterated their support of the definition of handicapped children as defined in the Education of the Handicapped Act. We expect that the children who fall within the definition will continue to be served within the Head Start Program. The conferees intend that any proposed change in the handicapped eligibility criteria must meet the standards of the law.

Title I of the bill represents a wise investment in not only our children's future but in the future of this Nation. This first 5 years of a child's life represent a key developmental period. A strong Head Start Program can help our poorest youngsters make the most of these critical years so that they can grow up into productive, contributing citizens.

The conference bill would reauthorize the Low-Income Home Energy Assistance Program at $2,050 million for fiscal year 1987. The Energy program would grow at a 4-percent rate for the next three fiscal years authorized.

The LIHEAP program served 7 million households in fiscal year 1986 with an average benefit of $208, down $15 from fiscal year 1985. This means about 40 percent of the 17.6 million households eligible under the State-established standards received benefits equivalent to 23 percent of their residential energy expenditures.

Despite rumors to the contrary, most households have not benefited from the drop in world oil prices. While the 16 percent of low-income households using heating oil did get some small price break—albeit many months after the refineries and terminals benefited—the other 84 percent have not experienced any price drop. Indeed, indications are that electricity prices will continue to increase and that gas prices, once expected by DOE to stay level, may now rise higher than administration predictions as price controlled "old gas" disappears.

The poor continue to spend about 14 percent of their incomes on residential energy—more than twice as much as the average American household and a far higher proportion than they did 10 years ago. In fact, census figures recently distributed by the National Association for State Community Services Programs show that the average 3-person LIHEAP household, after paying for food, housing and energy, has $355 left per year for all other expenditures.

The LIHEAP block grant represents a partial response to the very serious problem energy continues to pose for the poor. This act provides only a 4-percent increase each year over the previous year's funding. Other resources are clearly needed to provide service to the majority of eligible households not now being served and to give more adequate aid to the neediest LIHEAP households whose energy costs can now exceed 30 percent of income.

In 1984, the Labor and Human Resources Committee reauthorized LIHEAP and determined that the program had developed into an effective delivery system which needed some elements of improvement and targeting to perfect it. Consequently, our amendments in the Human Services Reauthorization Act reduced the permissible amounts of carryover, required equal treatment for categorically eligible and nonwelfare households, prohibited States from excluding households under 110 percent of poverty, and required all States to reserve some funds for winter emergency assistance and provide effective aid to those facing energy crisis.

The Senate oversight hearings this year found that indeed the program has matured further and is working well in the vast majority of States. Not only has program participation increased, but Federal, State, utility, private, and recipients alike testified to the success and effectiveness of most programs.

However, we identified a few problem areas in which a few States had apparently not read our intent clearly. This conference report is designed to restate the continuing concern of the Congress more unequivocally.

The conference committee expects States to adopt an emergency program which will ensure round-the-clock life-saving help. The Department of Health and Human Services should support such efforts. The provision requires that all States must provide energy emergency aid at the community level and that the States' crisis program must meet standards set forth in the law. This is the conference's solution to the frustrating evidence that a few States are not providing the locally accessible, prompt form of aid that is essential to the elderly and others who face loss of heat.

The birth of energy assistance funding over a decade ago, was a direct result of Congress' view that is is intolerable if any American should face illness or death by virtue of hyperthermia or hypothermia. State programs are still responsible for providing protection from those risks to the elderly and others at risk. Providing regular payments to those certified for the program early in the winter is not adequate when less than 40 percent of the eligible poor are participating.

This conference bill definitively clarifies the treatment of LIHEAP benefits under section 5(e) of the Food Stamp Act. LIHEAP benfits, whether received in cash—directly—or through payments to energy vendor—indirectly—shall not affect a household's eligibility for or benefits received under the Food Stamp Program.

The legislative history of LIHEAP makes clear Congress' intent that LIHEAP supplement other basic needs programs, including specifically the Food Stamp Program. Nevertheless, the USDA has attempted, through regulation, to undermine the intent of Congress expressed in LIHEAP, by prohibiting the deduction of LIHEAP benefits as all or part of a household's excess shelter deduction under section 5(e) of the Food Stamp Act.

The courts have found in all cases, consistent with the intent of Congress in LIHEAP, that LIHEAP benefits should be counted as all or part of a household's excess shelter deduction under section 5(e) of the Food Stamp Act. These court decisions affect the eighth and ninth circuits and Indiana. This legislation lays to rest this issue by affirmatively extending these court decisions nationwide.

The Congress has also rejected the administration's proposal to count a

variety of other forms of Federal benefits in LIHEAP benefit and eligibility determinants.

The bill reiterates Congress' intent that the neediest households, as defined historically in section 2605(b)(5) of the act, are to receive the maximum assistance. This means that States must vary benefits according to the factors set out in that provision; that is, based on income and energy costs in relation to income, taking into account family size.

In other words, the conference bill requires that States consider energy costs in relation to income and family size when setting benefit levels. The conferees are concerned that, since resources will never be adequate to the need, the highest benefits always go to those in greatest need, which means those with the highest energy costs in relation to income and the lowest incomes. States are expected to target LIHEAP resources effectively to the need; the Senate hearings showed that the vast majority of funds are distributed as intended, but that a few States, for administrative convenience, were making uniform payments to all categorically eligible households regardless of their income or energy costs.

The conference bill reauthorizes the community services block grant at $390 million for fiscal year 1987. The authorization levels are increased by 5 percent for the 3 additional years in the bill.

The conference committee bill adopts the Senate language that makes a number of changes in the discretionary authority of the Secretary. First, it was brought to the committee's attention that the existing statute was unclear regarding both eligibility of grantees and activities under the community economic development [CED] section of the law. The intent, in drafting the CED section for the Omnibus Reconciliation Act of 1981 was to continue to fund successful nonprofit community development corporations to carry out job creation and enterprise development projects to benefit low-income people and their communities. In my State, Northern Communities Investment Corp. [NCIC] is such an organization and I have been very impressed with its record of accomplishment. The conference bill revises the statute to make clear that funds authorized are to be used to fund projects sponsored by nonprofit community development corporations, which will promote job creation and business development in distressed communities.

In addition, the conference committee adopted language requiring that all CED funds be administered on a competitive basis. Currently, most grants are made after a national competition. However, each year a few are made outside this system. The conferees felt that all grantees must compete for funding.

In order to ensure that a national technical assistance program for rural communities with inadequate drinking water is continued, the conferees adopted the House language to the rural housing and community facilities section giving a priority to rural community assistance corporations. However, Mr. President, in reviewing the conference report I noticed a technical error in the drafting of the conference bill language. The bill languge does not reflect the agreement as stated in the statement of managers. I shall note for the record that the statement of managers is the agreement of the conference. It was our intent to provide a priority to community facilities grantees under the rural housing and community facilities section of the discretionary fund.

Mr. President, under Senator HAWKINS' able leadership this bill will make further improvement in the delivery of human services to our elderly and low-income Americans. The continuation of these important programs is needed to meet the needs of elderly and low-income Americans.

Mr. President, I highly recommend this conference report to my fellow Senators and urge its adoption by the Senate today.

Mr. QUAYLE. Mr. President, I am pleased to support the conference report to accompany H.R. 4421, the Human Services Reauthorization Act of 1986. This bill continues several very important education and community service programs for 4 more years. I want to commend the chairman of the Labor and Human Resources Committee, Senator HATCH, for his work and especially the gentlewoman from Florida, Senator HAWKINS, the chair of the Subcommittee on Children, Family, Drugs, and Alcoholism, who has really seen this initiative through and has worked very hard on the legislation. Senator HAWKINS has spent many hours on this bill, and I know hgw personally committed she is to ensuring the best possible programs in these areas.

Contaifed in H.R. 4421 is one of the Nation's most popular and successful programs, the Head Start Program. For years, this Federal program has helped low-income and disadvantaged 3-, 4-, and 5-year-old children receive the strong education foundation that they need to succeed in later school life. Head Start allows caring professionals to provide personal attention to children to build a strong base educational skills as well as in the value and importance of education, in self-confidence, in social skills, and in areas of health and nutrition. Head Start also works to bring the family of the child into the educational process, and uses many parents as volunteers and teachers aides in the classrooms to reinforce the concept that parents must take an active part in their children's education if the children are to be successful.

The Head Start Program has worked well, and many studies show the benefits of early childhood education. Because the program has worked so well, and is flexible enough to allow communities to design the programs that best fit their needs, H.R. 4421 makes very few changes to the act. One change that is made is to require more coordination between Head Start programs and other education or community projects that the State or locality may be conducting to help disadvangaged youngsters.

H.R. 4421 also reauthorizes the Follow Through Program for 4 more years, the Community Services Block Grant for 4 more years, the Dependent Care Program for 3 more years, and the Low-Income Home Energy Assistance Program [LIHEAP] for 4 more years. All of these programs provide important services to needy families and children through schools or community based organizations.

The Low-Income Home Energy Assistance Program has been a crucial program to Indiana, and many thousands of elderly and low-income families depend on this energy assistance to see them through the winter months. Project SAFE, as the Indiana program is called, has served 151,271 households in the 1986 program year.

I am somewhat concerned about the authorization level for this program being reduced based on the reports that energy costs have decreased. While it is true that energy costs have decreased, many of these decreased prices are not passed onto the consumer, but are only passed on to business and industry, and those large enough to avail themselves of direct access to pipelines. I will, therefore, be watching carefully the LIHEAP Program in Indiana to ensure that the needs of Indiana residents are being adequately met.

Another area of interest in the Senate version of the Human Services Reauthorization Amendments of 1986 had been my proposal to make changes to the Fair Labor Standards Act to permit 14- and 15-year-olds to serve as batboys or batgirls during baseball games with certain restrictions. This provision is not contained in the final version of H.R. 4421, however, a new provision is added to require the Secretary of Labor to issue a report on whether a change in the permissible hours of employment for batboys and girls would be detrimental to their well-being and whether such a change should be proposed. I am disappointed that the conferees did not agree to include my original amendment, but I look forward to receiving the report of the Secretary of Labor,

which I hope will be timely, reasoned, and complete.

Additionally, I have written to the Secretary of Labor regarding this important study and will ask unanimous consent that a copy of my letter be printed in the RECORD following my statement.

Again, Mr. President, I am pleased to support the conference report to accompany H.R. 4421. The Head Start Program is one that we are all proud of and anxious to have reauthorized, so that the good works can be continued. I urge my colleagues to support this conference report.

I ask unanimous consent that the letter to which I referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 15, 1986.

Hon. WILLIAM E. BROCK,
Secretary of Labor, Constitution Avenue, Washington, DC.

DEAR BILL: As you struggle with such serious problems as youth unemployment, occupational safety, labor relations, and economic dislocation which are the lot of a Secretary of Labor, I want to distract you for a moment to a more pleasant scene.

Spring is in the air; "Play ball," shouts the umpire; hope springs eternal in the fans, and players exuberantly proclaim their prowess. Kids flock to the ball park; some into the stands, the lucky ones onto the field to rub elbows with the great (at least in their eyes). The kids in the stands stay till the end of the game—those on the field must leave at 7 p.m. (end of the first inning) or, after June 1, at 9 to ensure that they miss the 7th inning stretch.

Now the Labor Department can take a look to see whether all this makes sense because the Conferees on HR 4421 included a provision requiring the Secretary of Labor to "issue a report whether a change in the permissible hours of employment of bat boys and girls would be detrimental to their well-being and whether or not such a change should be proposed."

If the issue is looked at with the common sense for which you are well known; and if it is looked at from the perspective of the baseball diamond rather than the grim sweatshops photographed by Jacob Riis, the outcome will be favorable for the kids whose health and happiness is our common concern.

Sincerely,

DAN QUAYLE,
U.S. Senator.

Mrs. HAWKINS. The conference report on H.R. 4421, requires that the Department of Education conduct a study in order to compile a complete list, by name, of beginning reading instruction programs and methods, includifg phgnics. It is to indicate whether such programs and methods do or do not present well designed instruction as recommended in the Report of the Commission on Reading, "Becoming a Nation of Readers." The General Education Provisions Act specifically prohibits the Department of Education from mandating any specific curriculum. Is it the understanding of the chairman that the intent of this provision is solely to provide reliable information that people can, if they wish, put to use in various ways?

Mr. STAFFORD. Your understanding is correct. This study is not intended to authorize the Department of Education to mandate any specific reading program. In implementing the study, the Department is to be guided by the requirements and intent of section 432 of the General Education Provisions Act which provides—

No provision of any applicable program shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system . . . (20 USC 1232a)

This study is in accordance with the General Provisions of the Department of Education Organization Act (P.L. 96-88). Title I, section 102(4) states that one of the purposes of the Department of Education is—

to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and sharing of information . . . (20 USC 3402).

Mr. HATCH. Mr. President, I would like to clarify for the chairman of the Budget Committee, my good friend Senator DOMENICI, the intent of section 405(a)(1)(B) of the conference report on H.R. 4421, the Human Services Reauthorization Act of 1986. The amendment inserting the words "to enter into" before "contracts" is not intended to create new contract authority as defined in section 401 of the Congressional Budget Act. The authority of the Secretary to enter into contracts under section 9910(a) of title 42 is intended to be subject to appropriations action.

Mr. DOMENICI. I thank my good friend from Utah for clarifying the intent of the conference committee that section 405(a)(1)(B) of the conference agreement on H.R. 4421 is not intended to create new contract authority.

Mr. ZORINSKY. Mr. President, I would like to thank Senators STAFFORD, HAWKINS, and HATCH for their assistance and cooperation in including in this legislation my amendment requiring a study of beginning reading instruction. A serious national literacy effort must address prevention as well as remediation. Making available information to improve the teaching of reading in our schools will be an important first step in that direction.

On September 16, when the House approved the conference report on H.R. 4421, Congressman GOODLING made a statement that I consider to be erroneous. He said that the language of the conference report is substantially different from that of my original amendment, and that these changes were made to address concerns that the Department of Education not be put in the position of issuing a "stamp of approval" for a specific reading or other instruction program.

First, I would like to note for the RECORD that the only change made in my amendment involved moving a word from one place to another. It did not change the intent of the amendment in any way. Second, I would like to assure Congressman GOODLING that my amendment does not require the Department of Education to mandate curriculum. It does follow up on two Department of Education reports—"Becoming a Nation of Readers" and "What Works"—by giving more specific information to educators and parents to help them make informed decisions on what reading programs to choose.

With billions of dollars being spent every year on remedial reading programs, I do not see how anyone can object to providing this kind of information.

I also want to reassure my friend, Congressman HAWKINS, that this amendment addresses the concerns he expressed during the hearing he so kindly held for me on March 20 when he said that the Department of Education does not appear to be doing enough to steer educators toward the most effective reading methods. In this regard, while the study would not approve or disapprove any specific reading programs, some comparisons are inevitable.

In the introduction to "What Works," Chester E. Finn, Assistant Secretary for Research and Improvement, noted that "we believe strongly in the responsibility of the Department of Education to gather information and generate knowledge about education in an efficient and energetic manner and then make that information and knowledge accessible to people who might benefit from them." This is precisely what my amendment requires the Department to do.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table is agreed to.

□ 1930

SMALL BUSINESS ADMINISTRATION AUTHORITY

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate

now turn to the consideration of H.R. 4260, to continue authority for the Small Business Administration, which is being held at the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4260) to provide the Small Business Administration continuing authority to administer a program for small innovative firms, and for other purposes.

The Senate proceeded to consider the bill.

Mr. WEICKER. Mr. President, I rise today to urge my colleagues to support legislation which is extremely important to the Nation's technological base and of vital concern to the small business community. The delegates to the White House Conference on Small Business voted as their 16th recommendation that the Congress should reauthorize their SBIR Program through the enactment of H.R. 4260.

On August 13, 1986, the House of Representatives passed, by a vote of 421-1, H.R. 4260, a bill to amend the sunset provision of the Small Business Innovation Development Act of 1982, Public Law 97-219. Under this law, each agency with a research and development [R&D] budget of $100 million or more is required to set aside 1.25 percent of its extramural research budget for small business. The act is scheduled to sunset on September 30, 1988; however, H.R. 4260 would extend the Small Business Innovation Research [SBIR] Program to September 30, 1993, and directs the Comptroller General to issue two reports on the results of the SBIR Program to Congress no later than December 31, 1988 and December 31, 1991. In addition H.R. 4260 specifically provides that funds appropriated to the Department of Defense under category 6.6—operational systems development—are to be excluded from its extramural base for purposes of calculating its SBIR Program budget. Given the success of the SBIR Program to date and the widespread support for its continuation, I urge the Senate to extend the life of this important research and development program.

LEGISLATIVE HISTORY

As chairman of the Small Business Committee, I joined with my very able colleague, Senator RUDMAN, chairman of the Subcommittee on Innovation and Technology, introduced S. 881, the Small Business Innovation Research Act of 1981 on April 7, 1981. Numerous studies had shown that small businesses are our Nation's most efficient and fertile source of innovations, and that small firms produce about 24 times as many innovations per research and development [R&D] dollar as large firms and four times as many as medium-sized firms. Yet, only 3.5 to 4 percent of the Federal R&D dollar was awarded to small firms. This underutilization of small businesses in Federal R&D programs was especially regrettable when considering the highly successful track record of small firms in generating jobs, tax revenues, and other economic and societal benefits. Therefore, the purpose of the bill was twofold: first to more effectively meet research and development [R&D] needs brought on by the utilization of small, innovative firms and second, to attract private capital to commercialize the results of the Federal research. Although the legislation passed the Senate by a vote of 90-0, it was the subject of controversy in the House of Representatives. Seven House committees sought jurisdiction of companion legislation, H.R. 4326, and a series of hearings were conducted by most of these committees. All seven committees reported out a different version of the measure. The House Small Business Committee subsequently introduced a clean bill, H.R. 6587, which, after extensive debate on the House floor, passed Wednesday, June 23, 1982, by a vote of 353 to 57.

On July 22, 1982, President Reagan signed into law the Small Business Innovation Development Act.

IMPLEMENTATION OF THE ACT

Under the law, each agency with a R&D budget of $100 million or more is required to establish an SBIR Program within the agency. Small businesses are then invited to submit proposals in response to soliciations released by the various SBIR offices.

There are 12 agencies participating in the SBIR Program; namely, the Department of Agriculture, the Department of Commerce, the Department of Defense, the Department of Education, the Department of Energy, the Department of Health and Human Services, the Department of the Interior, the Department of Transportation, the Environmental Protection Agency, the National Aeronautics and Space Administration, the National Science Foundation, and the Nuclear Regulatory Commission.

Funding for the SBIR Program is mandated by the act to be a percentage of each agency's extramural R&D budget. In fiscal year 1983, each agency was required to set aside 0.2 percent of its extramural R&D budget, 0.6 percent for fiscal year 1984, 1.0 percent for fiscal year 1985, and 1.25 percent for each fiscal year thereafter. DOD, however, was allowed 5 years to reach the 1.25 percent funding level.

The program is divided into three phases. In phase I small businesses can receive up to $50,000 for a R&D proposal which has scientific and technical merit. In phase II recipients of phase I awards can receive up to $500,000 over a 2-year period to further develop a proposal which has demonstrated significant scientific and technical merit. The third phase pursues the commercial application of the R&D, and may involve non-SBIR funded production contracts with a Federal agency or private sector financing.

Approximately, $356 million in R&D funding have been awarded to small, innovative firms for phase I and phase II experimentation. Award winners have represented 46 States and the District of Columbia, and the distribution of R&D proposals have fallen within the following areas of technology: Computer, information processing and analysis; electronics; materials; mechanical performance of vehicle weapons facilities; energy conversion and use; environment and natural resources, and life sciences.

In fiscal year 1985, the Small Business Administration's Office of Innovation, Research and Technology [OIR&T], which is primarily responsible for monitoring the agencies' implementation of the SBIR Program, began the operation of its commercialization matching system [CMS] linking SBIR awardees with potential sources of capital (venture capitalists and larger corporations). CMS was developed to support a basic aim of the SBIR Program: The conversion of R&D results into commercial applications and products through the use of non-Federal sources of capital. Both SBIR awardees and direct sources of capital are eligible to use the computer search capabilities of CMS to receive information about one another.

According to the staff of OIR&T, the data base presently contains information on over 3,200 SBIR projects and 520 sources of capital, evenly divided between venture capital firms and large corporations. To date, CMS has been used by 325 SBIR awardees, 110 large corporations and 60 venture capital companies.

COMMITTEE'S OVERSIGHT OF ACT

The agencies and the small business community have been extremely supportive of the SBIR Program. Senator RUDMAN, chairman of the Subcommittee on Innovation and Technology and the original author of the legislation, conducted two oversight hearings in March of this year. Of particular interest to the subcommittee was the examination of the phase II component of the program. Because one of the objectives of the act is to increase private sector commercialization of innovation derived from Federal R&D, an examination of some of the phase II results would provide the subcommittee with a preview of the kinds of proposals being funded by the program. During these hearings, representatives from the agencies, the small business community and State governments testified before the subcommittee regarding their experiences with the SBIR Program.

The first hearing was held in Merrimack, NH on March 3, 1986. One of the small firms that has won multiple awards from various agencies is Creare of New Hampshire. Creare is a mechanical engineering service company and computer software products company dedicated to technological advances in a variety of mechanical engineering areas. Dr. James A. Block, president of Creare, informed the subcommittee of one of the firms completed phase II projects which is near commercialization:

I would like to give an example of how the SBIR Program has benefited us and talk about one of the phase 2 projects we have recently completed. This was a project performed for the Department of Energy to develop a very unique pump which would pump cryogenic fluid, basically pump or compress very cold helium.

The basic device has a number of applications, including magnetic refrigerators for space, transfer of hydrogen in space for NASA, and the specific DOE application which involved cooling of super-conducting magnets for high energy physics experiments.

We developed a unique pump which is extremely reliable, which has a long life, low maintenance and, most importantly, is non-contaminating of the helium. We did this by hermetically sealing the pump unit and using the cryogen itself for lubricating the bearings.

FERMI lab is a laboratory in Illinois which was the United States largest superconducting magnet facility to accelerate particles to very high velocities for basic research. They have an in place investment in these magnets of over $1 billion. The hope is and our expectation is that by putting a number of these pumps we have developed around their loop of magnets, they can achieve a 25 percent increase in the energy levels available at this facility which will provide a very cost effective way of maintaining the U.S. leadership in high energy physics.

At the March 23 hearing in Washington, DC, Dr. Ernest L. Koerner, president of Techrad, Inc. of Oklahoma, testified to the objective of his firm's innovation entitled "Pilot Plant Investigation of Coal-Wood-Pellets as an Industrial Fuel Source", which received phase I and phase II funding from the Department of Energy:

There are several important benefits that can be derived from the successful application of the proposed technology. The most important benefit to be derived from this effort is that it would utilize coal and wood wastes as an industrial fuel. Coal fines and sawdust are now largely wasted natural resources because of technology to put them into a marketable form. The available large tonnages of these wastes provide private enterprise with profit-making opportunities and, at the same time, allow certain industries to stabilize their energy bills with lower-cost fuel. The utilization of coal fines derived from secondary recovery operation offers the potential to conserve an equivalent amount of virgin coal for future generations. In addition, by furnishing a cheaper fuel source than oil and gas, these natural resources are also reserved for future use. It is especially important at this time to replace as much oil usage as possible to reduce the Nation's dependence on imported oil.

Another interesting innovation developed under the program is that of David Franklin, who is president of Audiological Engineering Corp. in Massachusetts. Mr. Franklin's firm has received phase I and phase II funding from the National Institutes of Health for the firm's development of wearable tactile aids for the profoundly deaf. According to Mr. Franklin, audiological engineering is one of two domestic firms and one of six worldwide to have developed this hearing device, both of which have received SBIR funding. Mr. Franklin shared with members of the subcommittee how the program has benefited the firm's work in this area:

Because of this relatively small market potential, it is highly unlikely that sufficient research and development funds could have been found without the SBIR Program. Without the continued support of the SBIR Program it is equally doubtful that the tactile technology will be able to attain its full potential.

In my mind it is very important to address the trend of today's society towards invasive treatment of human ills. The treatment of profound deafness by noninvasive tactile methods is an attractive and inexpensive alternative to Cochlear implants which are both invasive and expensive.

One of the most rewarding aspects of this work has been feedback from teachers and parents of profoundly deaf children. They have consistently reported significant improvements in previously unresponsive children as to speech quality and frequency, responses to environmental sounds and an awakening of interest in lip reading, signing and social interaction.

Formal studies with two children, Megan (from 29 months to 44 months), and Tabitha (from 33 months to 43 months) have shown remarkable results. The older child, (Tabitha, now 12 years old), is mainstreamed, completely successful academically, and a social leader among her hearing peers. This is a very unusual outcome for a profoundly deaf child.

The other child, Megan, now 5, is showing language acquisition rates, both receptive and expressive, that fully match those demonstrated by Tabitha. Megan was the subject of a nationally shown TV special on PBS (New Tech Times).

In response to a question posed by Senator KERRY, Mr. Franklin stated that about 400 to 500 children are using this tactile aid. He also testified the potential savings from the use of the aid by this group would be 10 times more than the $500,000 that will be spent over a 20-year period to mainstream them in society.

Mr. President, these are just a few examples of some of the innovations being funded, all of which would have never been realized absent the SBIR Program. While it is too early to predict the overall impact the program will have on the economy since most of the innovations can take anywhere from 4 to 19 years to reach commercialization, we are confident that these and other small business innovations will make a vital contribution to this National's technological base.

Mr. President, because another objective of the program is to strengthen the role of small business at meeting Federal R&D needs, each of the 12 agencies participating in the program were also asked to submit testimony on their second year results under the program. Members of the subcommittee were particularly interested in receiving the agencies comments to assess how small firms are responding to their individual R&D needs.

Mr. President, it is also important to note that during the 1981 hearings and since the inception of the SBIR Program, opponents of the program have questioned the capability of small firms to do the kind of research performed by the more traditional sources participating in Federal R&D programs; even a top science and technology advisor to the White House was quoted as saying, and I quote, "the SBIR Program is like throwing money down a rat hole." Skeptics have also suggested that the set-aside would force a "suboptimal allocation of resources". However, testimony our committee received from top Federal research agencies dismiss this concern. Dr. William F. Raub, director, Office of Extramural Research and Training, National Institutes of Health, made the following statement concerning the SBIR Program:

Having described our first 3 years' experience with the SBIR Program, we would like to bring the subcommittee up to date on an issue that has been the subject of some interest and speculation: the quality of the research funded by the DHHS and particularly the NIH SBIR Program. In fiscal year 1984, the second year of the program, the NIH SBIR set-aside funds more than tripled from the previous year, going from $6.07 million to $20.7 million. That year the number of grant applications submitted to NIH did not triple. Consequently, in a few institutes at NIH, specifically the National Cancer Institute [NCI], all approved grant applications, regardless of score, were funded. This led to the well publicized case of a grant application with a score of 349 that was funded by NCI. (priority scores range from 100 to 500. One hundred denotes the highest and 500 the lowest scientific merit of an application recommended for approval). Since then the quality of SBIR applications has improved significantly as the numbers have continued to grow. The SBIR mean score of 250 compares favorably with the mean score of 227 for NIH regular research grant applications. While the average quality of SBIR grant awards, as reflected strictly by score, appears to be slightly lower than that of our regular grants, last year some institutes, e.g., the National Eye Institute, the National Institute of Child Health and Human Development and even the National Cancer Institute, funded SBIR applications with scores essentially equivalent to those funded in their regular research grants program. Thus we are confident that the quality gap between NIH SBIR awards and traditional project grants is proving to be evanescent.

Another agency that echoed the same sentiments was made by NASA:

Since the enactment of the SBIR statute, NASA management and researchers have developed a strong support of and enthusiasm for the program. NASA has found that a great number of new and attractive approaches to problems and opportunities identified in the program solicitation have been offered by a large number of innovative small firms. Most of these ideas has not previously been volunteered to NASA by those firms, and possibly would never have been in the normal course of events. The SBIR opportunity and stimulus made it possible for many of these ideas to reach NASA's attention and to be funded. Of course, a number of the proposals received the first year and in subsequent years were judged not to have great merit; nevertheless, we were greatly pleased with high incidence of high-quality, thoughtfully-developed R&D proposals.

One conclusion, based on 3 years of experience in the program, is that the SBIR phase I-phase II approach and program management philosophy have provided a very cost-effective means for exploring new ideas rather quickly. The rapid response capability of our SBIR firms and their generally high motivation and skill levels have proved to be genuine assets in our overall program. SBIR contract efforts are now viewed as an integral and important element of the overall NASA R&D Program, albeit comprising a relatively small total increment. Among the SBIR projects are the development of new analytical methods, designs, software, and hardware for direct use by NASA in our total R&D and operational program activities.

Mr. President, these comments are neither peculiar to NIH nor NASA. The remaining 10 agencies also submited similar comments as well as voiced their staunch support of the program.

In addition State officials from New York and Pennsylvania testified that their States have either established or are in the process of developing a prototype to the Federal model, as a method of fostering economic development at the local level. New York has done just that. On July 19, 1984, the New York State Small Business Innovation Research Promotion Act was passed and signed into law by Governor Cuomo. The legislative intent section of the statute best summarizes the reasons behind New York's SBIR program:

The legislature finds and declares that it is in the best interest of the State to increase participation by New York small businesses in the Federal Small Business Innovation Research Program and to assist New York small businesses in becoming SBIR phase II grant recipients. Small technology-based firms are the source of approximately one-half of our Nation's major innovations. By implementing a promotion and matching State program in this legislation, the State can encourage the formation, growth and development of small, innovative high technology companies in the State and contemporaneously stimulate high risk or advanced technology research and development by New York small businesses which potentially could lead to commercialization of new products and processes. Such a program which encourages existing high technology companies to remain and expand in New York creates expanded employment opportunities and assists in the growth and development of the economy of New York.

Mr. President, approximately, nine oversight hearings were held on the SBIR Program in fiscal year 1986 between the Senate and House Small Business Committees. All the testimony, be it from representatives from the agencies, small business community or State officials, was highly supportive of the program, and is a matter of record.

Consequently, my good friend, Congressman MAVROULES, introduced H.R. 4260, a bill to make the SBIR Program permanent. This measure also provided that the Department of Defense could exclude from its base funds appropriated under category 6.6—operational systems—for purpose of calculating its SBIR budget.

After H.R. 4260 was favorably reported out of the House Small Business Committee, it was sequentially referred to six House committees which held hearings on the bill in July. Four of the six committees reported out H.R. 4260 favorably without an amendment. The Committee on Science and Technology also voted to make the program permanent, but amended the bill by requiring the Comptroller General to issue a report on the results of the SBIR Program to Congress in 1995. The Committee on Energy and Commerce, however, amended the measure by only extending the SBIR Program 5 years. A compromise was subsequently reached by the aforementioned committees in conjunction with the Small Business Committee to support the 5-year extension, the DOD exclusion and the issuance of two Comptroller General reports by December 1993 and 1995 in exchange for the bill being placed on the suspension calendar prior to the Labor Day recess. H.R. 4260 passed the House of Representatives by a vote of 421 to 1 on August 13.

Mr. President, the record is clear that the program has surpassed everyone's expectations, while enhancing and not jeopardizing the research missions of the individual agencies. If ever there was a time when new ideas and new ways of doing things were needed, that time is now. The SBIR Program has provided a unique opportunity for the Federal Government to tap the creative and entrepreneurial spirit of small businesses that has made this Nation great.

Mr. President, I would like to take this opportunity to again commend Senator RUDMAN and our distinguished colleagues in the House for their efforts in closely monitoring the implementation of the program. Without their enthusiastic advocacy and relentless commitment to this program, the innovative potential of the small business community may have never been tapped or properly tested by the Federal Government.

In conclusion Mr. President, I strongly urge my colleagues to support passage of H.R. 4260.

Mr. RUDMAN. Mr. President, I rise to express my strong support for H.R. 4260, legislation to extend the Small Business Innovation Research [SBIR] Program authorized by the Small Business Innovation Development Act of 1982.

By way of background, in April 1981 I introduced S. 881, the Small Business Innovation Research Act, along with Senator WEICKER and others. This legislation was eventually signed into law by President Reagan on July 22, 1982, thereby becoming Public Law 97-219. The law was designed to address some very real problems facing the Nation: the loss by the United States of its world leadership position in the fields of innovation and technology advancement; the need to stimulate the job production capabilities of the private sector; and the need to ensure the greatest return for Federal research and development [R&D] investment at a time of mounting Federal deficits. Our legislation sought to address these problems by using small business to meet Federal research and development needs.

Under the SBIR Program, all Government agencies with a research and development budget in excess of $100 million are required to establish an SBIR Program within the agency. Small businesses are then invited to submit innovative proposals in repsonse to broad categories of research topics selected by the SBIR office in each agency. The act requires that a small percentage of an agency's R&D budget be devoted to the SBIR Program. When fully phased in, that percentage is 1.25 percent. Agencies with R&D budgets in excess of $20 million must establish small business goals.

The SBIR Program sets out three phases to accomplish its goals. Under phase I, awards of up to $50,000 are made to small businesses to develop proposals which demonstrate exceptional technical or scientific merit. Under phase II, promising projects developed under phase I may compete for awards of up to $500,000 to permit their further development. Finally, phase III encourages the commercial application of R&D activities and may involve non-SBIR funded production contracts with Federal agencies or the private sector.

H.R. 4260, which was approved by the House of Representatives on August 13, 1986 by an overwhelming vote of 421 to 1, would extend the SBIR Program for 5 years to September 30, 1993. So as to ensure that there is ample information on which to analyze the law's success, the bill calls for

a GAO report evaluating the SBIR Program by December 31, 1988, with another report to be submitted by December 31, 1991.

Mr. President, the bill also includes a provision to permit the Defense Department to exclude the operational systems development funds from the SBIR Program. These are funds for programs under development that have not been approved for production, as well as certain other funds for DOD programs under production. It is argued that the introduction of new suppliers into this program might be more expensive and cause delays in the availability of updated defense systems. Frankly, I am opposed to this provision. In my view, the small business community has demonstrated its ability to meet our national needs in an efficient and effective manner. However, in order to secure passage of this important legislation, I am willing to accept this amendment which was added by the other body.

Mr. President, while it is too early to fully access the impact of the law, the record to date indicates that the program has clearly been successful. SBIR programs were established in 12 Federal agencies. Another six agencies with R&D budgets in excess of $20 million have established small business goals pursuant to the acts requirements. Over 27,000 proposals have been submitted by small high-technology firms and close to 4,000 phase I and II awards have been made. The Small Business Administration last year began the operation of its commercialization matching system [CMS] to link SBIR projects with potential private sector investors.

Although the first phase II projects are only now being completed, the preliminary results of a survey of the predecessor National Science Foundation and Defense Department programs found that 34 percent of the projects received subsequent outside financing, amounting to twice the dollar amount of the SBIR awards. Certainly, a major objective of the act is to encourage commercialization of innovative proposals developed under SBIR funding. The evidence indicates that this objective is being and will be met.

Earlier this year, the Small Business Committee held two hearings to examine the progress made under the SBIR Program. One hearing was held in my home State of New Hampshire, and the other was held in Washington, DC. At these hearings, the committee received testimony from SBIR participants, small business representatives, State and local officials, and Federal agencies. I believe that the record established at these hearings, as well as at hearings held by the House of Representatives, fully supports the purpose of H.R. 4260, namely, to extend the law for another 5 years. To use one example, the statement we received from Erich Bloch, Director of the National Science Foundation, concluded that:

> SBIR is funding cutting edge research in key high risk areas that often only the government can support. It is an opportunity for researchers with high risk ideas from small firms with strong R&D capabilities to work effectively with universities, industry and venture capital firms to promote the economic competitiveness and technological innovation that for so long has been the backbone of our industrial capabilities.

I might also point out that extension of the SBIR Program was one of the major priorities of the 1986 White House Conference on Small Business.

In conclusion, let me say that I believe that this legislation, by encouraging small business involvement in technological innovation, will provide enormous benefits to the Nation and promote our world leadership in these areas. According to various studies small business is essential to our research and development efforts: Small firms produce about twice as many significant innovations per employee as large firms; small firms had a new product for every $10 million of net sales, or 7.8 times the rate for all firms; small business' relative contribution to employment growth in high technology is twice that of large business. Indeed, small business is the key to our Nation's economic strength. I urge my colleagues to act favorably on this measure.

Mr. BUMPERS. Mr. President, I am pleased to join a number of my colleagues in support of H.R. 4260, a bill of tremendous importance to America's small entrepreneurial firms. This legislation will extend the Small Business Innovation Research [SBIR] Program as authorized by the Small Business Innovation Development Act of 1982, Public Law 97-219. I particularly want to commend the leadership of my distinguished colleague from New Hampshire, Senator RUDMAN. Under the statute the SBIR Program is schedule to be sunsetted on October 5, 1988. H.R. 4260 will keep this important program in business for an additional 5 years, until October 5, 1993. In addition, it will clarify the definition of extramural research and development budget as it applies to projects already in production or approved for production at the Department of Defense.

For a number of years both the House and Senate Small Business Committees have studied the problem of declining innovation in this country and why the United States has fallen from first to last place among major industrialized nations in the rate of innovation and productivity increase. In response, the Small Business Innovation and Development Act was enacted in 1982 to require all Government agencies with extramural research and development budgets in excess of $100 million to establish a SBIR Program patterned after the highly successful pilot program initiated by the National Science Foundation in 1977. That program invites small business to submit innovative proposals in response to a wide variety of research topics selected by the agency. Responding businesses that offer exceptional innovative ideas compete for phase I awards of up to $50,000. Projects that show continuing promise upon completion compete for phase II awards of up to $500,000. Phase III involves followup funding by private sources and possibly an extended contract with the agency.

The SBIR Program has been immensely successful, with competition for the agency contracts exceeding all expectations. The quality of research has improved each year. Innovative ideas and technology has emerged from small firms which might never have made it through the bureaucratic range of America's corporate grants. The legislation was needed to increase the opportunities for small business to participate in Federal R&D programs which traditionally worked only with large concerns. Small busineses constitute 99 percent of all business establishments in the country, employ the majority of the Nation's work force, and contribute approximately 45 percent to the gross national product. Small businesses are also leaders in innovation and job creation, producing, in most recent years, 80 percent of all net, new jobs. Studies show that small firms are more than twice as innovative per employee as large businesses. The SBIR Program recognizes these facts and is precisely the type of program needed to reverse the decline in innovation which hinders American productivity and threatens our competitiveness with the rest of the world.

Mr. President, an important fact to note is that quality standards have not been compromised by introducing small business into the Federal R&D field. Each agency involved in the program has noted that SBIR proposals are of excellent quality, whether they are high-technology projects dealing with radioactive and other hazardous materials, or are projects dealing with food storage for grocery stores.

Although the SBIR Program does not expire until 1988, it is necessary to provide reauthorization to ensure the continuity of agency phase I and phase II solicitation, and to guard against the possibility of substantial disruption in planning future agency R&D efforts. The House of Representatives has seen fit to get an early start on the reauthorization process, and I commend them for it.

Mr. President, while a diversity of small firms have benefited from this program. I would like to note that there appear to be some significant

disparities across the country in the awarding process that call for examination. The distribution of awards is, as expected, skewed toward the more populous States and those with substantial "hi-tech" bases. Massachusetts and California collectively took 40 percent of all awards with comparatively minimal representation of small businesses in other regions of the country.

In my State, there have only been two phase I SBIR awards, and one of these was not renewed. There have, however, been other applications—I recall one particularly in the Energy Department—which I believed to have merit. This would indicate that many technically competent firms, particularly those located in the rural States, which are qualified to participate in the SBIR Program are not doing so. Certainly, there must be public awareness of the SBIR Program in order to attract applicants, and I pledge to do everything possible to improve public knowledge about the SBIR Program. By choice or circumstance these firms are effectively closed out of the process. Efforts by the SBA and the agencies to reach inventors and innovative businesses in the other States also need to be carefully examined.

Mr. President, the purposes of the Small Business Development Act of 1982, to stimulate technological innovation, to use small business to meet Federal research and development needs, to foster and encourage participation by minority and disadvantaged persons in technological innovation, and to increase private sector commercialization of innovation derived from Federal research and development, have all been achieved by the SBIR Program. In addition, the economic benefits derived from small business innovation, such as new jobs and a renewed international competitiveness, are being realized without adverse impact on the Federal budget. Mr. President, the SBIR should be continued so that ongoing projects can be continued and future small business innovators can be given the chance to introduce their inventions to the world.

Mr. KERRY. Mr. President, last week I joined with several of my Democratic Senate colleagues in presenting a report highlighting the need for a national effort to improve U.S. economic competitiveness. Our report, and the package of legislation we filed, placed particular priority on the need to upgrade our efforts to support research, technology, and innovation.

I am pleased to support H.R. 4260, the Small Business Innovation Reserach Program reauthorization, because it is a proven and successful means to help accomplish the goal of improved U.S. economic competitiveness. I think that we can be very proud of this program, and it's proven track record.

In 1978, the Senate and the House Small Business Committees held joint hearings on the utilization of small business enterprise in solving the Nation's technology problems. The evidence was that executive departments and agencies, such as the National Science Foundation, NASA, and the Defense Department, which has increased small business R&D funding, were better able to fulfill their mission responsibilities. These hearings and the consequent joint report of the two committees became the foundation for the enactment, in 1982, of the Governmentwide SBIR.

The SBIR legislation provides that each Federal department or agency with extramural research budgets exceeding $100 million should participate in this program, and 11 departments and agencies are doing so. In response to their solicitations, they have, over the past 3 years, received approximately 25,000 SBIR research proposals aimed at solving technical problems which they need to surmount to better perform their assigned missions.

In fiscal year 1983, the agencies solicited proposals on 618 topics and made 686 awards. In 1984 the number of topics had grown to 1,650 and the agencies had made 999 phase I awards—up to $50,000 to illustrate the technical feasibility of the innovation—and 338 phase II awards—up to $500,000 to bring the project to a prototype or preproduction stage.

I am proud to say Massachusetts is the second ranking State in the number of awards. For the first 2 years of the program, that is fiscal year 1983 and fiscal year 1984, California has received 416 awards for a total dollar amount of $36.4 million, while Massachusetts had won 337 awards for a total amount of $30 million. The quality of awards originating in Massachusetts is indicated by the high proportion of proposals from the Bay State that are successful under the program. The so-called "Route 128" technology based firms are thus making signal contributions to our national research and development and I salute our Massachusetts entrepreneurs for their efforts.

In my opinion, the SBIR Program is proving to be good for the country and good for the State of Massachusetts.

A notable aspect of the program is its marriage of public and private sector judgment. When firms submit their applications for phase II awards, the determining factor is the applicant's ability to obtain a private venture capital commitment. What this means is that if the innovation meets its specifications, the private money will be invested to produce the innovation for the commercial marketplace.

Another aspect is that SBIR does not cost the taxpayer any additional money. It sets aside a percentage—up to 1.25 percent in the final year—of whatever the agency budget happens to be for their SBIR type of competitive procurement. About 1 out of 12 proposals wins a phase I contract or grant. I believe these features make a lot of sense and we should commend the designers of this program as well as those in the Congress who recognized the merit of this system and guided the program to enactment.

Among the consequences of SBIR is to keep alive the spirit of Yankee ingenuity, and to open the doors of massive Government agencies to the very small firm which may have an idea that can revolutionize an industry. For example, of the companies funded by one prominent Government agency, 48 percent were less than 5 years old and 44 percent had fewer than 10 employees. Such small firms do not have the teams of engineers, administrators and lawyers to deal with booksized bidding instructions from Federal agencies or to put together lengthy contract proposals. Under the SBIR Program, all phase I proposals are limited to 25 pages. It is encouraging to note the report from the same article that Federal agencies, after initial fears that they would have to deal with hundreds of small inexperienced bidders, now say that they are getting "two worthwhile proposals for each one they can find." SBIR funds help the firms to grow into better competitors.

The program has proven good for large businesses. One study indicates that more than 40 percent of the SBIR winners expect to develop one or more of its innovations in some sort of licensing arrangement, or joint venture with a larger firm.

The program has also been good for universities. Businesses Week also reported that a significant proportion of the proposals funded are "university-coupled, that is using university professors as consultants or subcontractors for research or facilities. In some agencies, the share is well above 50 percent.

Business Week also reported the universities, which initially opposed the SBIR Program as competition for Federal research money, will now admit that the program "is working well." Since the Federal research budget for the current fiscal year is approximately $53 billion, and the amount allocated to SBIR is approximately $200 million, the SBIR share of total Federal research dollars amounts to less than one-half of 1 percent. That is not much competition, especially in an era of rapidly rising research budgets. Yet, depite the miniscule participation of small high-tech firms in federally funded R&D, small business innovations have played a critical role in the American economy.

Our adverse trade balance is sending us message that the United States is

now in a global market, and we are losing out in international competition in many areas. This is not the fault of our efforts in pure scientific research in this country. The efforts of U.S. universities and nonprofit organizations have, in fact, been the envy of the world. Our researchers have won part of all of 87 Nobel Prizes in physics, chemistry and medicine while the Japanese researchers have won only 4 such prizes. The state of our pure research is excellent, and we should continue to support and expand it.

However, what is not so good is the state of our applied research. U.S., companies are getting fewer patents then they did 15 years ago while patents issued to foreigners are steadily increasing. In 1985, foreigners got 45 percent of U.S. patents; 6 of 10 companies receiving the most patents were controlled by foreign corporations; and patents issued to the Japanese rose by 15 percent while patents issued to U.S. residents rose by only 3 percent.

What we need to improve as a nation is translating the results of our magnificent pure research into commercial products that can be sold in the marketplace, both here and at home and in world export markets.

The innovation process, by large and small companies, is the bridge over which research results travel to enter the marketplace. Small business accounts for half of the traffic. Examples of small business innovation include the xerox process, the instant camera, the helicopter, the catalytic cracking process for oil refining, hand held calculators, minicomputers, and hundreds of others.

Our need for more commercial innovation is demonstrated by the deteriorating U.S. trade balance and the loss of American industrial competitiveness. As a cascade of recent statistics has made clear, the U.S. economy is currently experiencing GNP, productivity, and investment growth below that of our major trading partners, and below our historical peak levels of the 1950's and 1960's, when we were the preeminent industrial economy in the free world.

The influx of foreign goods into the United States is beating the socks off of traditional mainstay American manufacturing industries such as steel, automobiles, TV, shoes and textiles, while the exports made possible by our diminishing lead in technology oriented new products and industries represents one of the few areas of hope.

I believe that our inability to compete with imports in many of our traditional industries has become a crisis for the U.S. economy. If we hope to turn the balance of payments around, we need more innovation from large and small businesses. Experience such as the SBIR Program indicates that increased support for small business will help us meet the international challenge by bringing more innovation into production sooner.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4260) was ordered to a third reading, was read the third time, and passed.

Mr. HELMS. I move to reconsider the vote by which the bill was passed, Mr. President.

Mr. BYRD. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

AT 11:45 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S 2095. An act to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act;

H.R. 3002. An act to provide for the establishment of an experimental program relating to the acceptance of voluntary services from participants in an executive exchange program of the Government; and

H.R. 4530. An act to amend the Department of Defense Authorization Act, 1985, to provide that members of the Commission on Merchant Marine and Defense shall not be considered to be Federal employees for certain purposes, to extend the deadline for reports of the Commission, and to extend the availability of funds appropriated to the Commission.

The enrolled bills were subsequently signed by the President pro tempore [Mr. THURMOND].

At 1:55 p.m., a message from the Hguse of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Hguse agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3622) to amend title 10, United States Code, to strengthen the position of Chairman of the Joint Chiefs of Staff, to provide for more efficient and effective operation of the Armed Forces, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2092. An act to amend the National Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal year 1987, and for other purposes;

H.R. 4062. An act to provide for the conveyance of certain public lands in Oconto and Marinette Counties, Wisconsin;

H.R. 4316. An act to amend title 35, United States Code, and the National Aeronautics and Space Act of 1958 with respect to the use of inventions in outer space;

H.R. 4492. An act to permit the transfer of certain airport property in Algona, IA;

H.R. 4545. An act to authorize appropriations for the American Folklife Center for fiscal years 1987, 1988, and 1989, and for other purposes;

H.R. 4754. An act to amend the Federal Food, Drug, and Cosmetic Act to require the appointment of the Commissioner of Food and Drugs to be subject to Senate confirmation;

H.R. 4838. An act to amend section 408 of the Federal Aviation Act of 1958 to ensure fair treatment of airline employees in airline mergers and similar transactions;

H.R. 4873. An act to authorize certain transfers affecting the Pueblo of Santa Ana in New Mexico, and for other purposes;

H.R. 4899. An act to amend title 35, United States Code, with respect to patented processes and the patent cooperation treaty;

H.R. 5016. An act for the relief of Sueng Ho Jang and Sueng Il Jang;

H.R. 5167. An act to declare that the United States holds certain public domain lands in trust for the Pueblo of Zia;

H.R. 5230. An act to amend the Public Health Service Act to extend the program of childhood vaccinations and to require the Secretary of Health and Human Services to maintain a 6-month stockpile of vaccines;

H.R. 5259. An act to amend the Public Health Service Act to revise the authorities of the Alcohol, Drug Abuse, and Mental Health Administration; and

H.R. 5521. An act to extend until October 13, 1986, the emergency acquisition and net worth guarantee provisions of the Garn-St Germain Depository Institutions Act.

At 5:45 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1483) to authorize the Smithsonian Institution to plan and construct facilities for certain science activities of the Institution, and for other purposes.

The message also announced that the House has passed the following bills, without amendment:

S. 2703. An act to amend the Federal Aviation Act of 1958 to provide that prohibitions

of discrimination against handicapped individuals shall apply to air carriers; and

S. 2759. An act relating to telephone services for Senators.

The message further announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 727. Joint resolution making repayable advances to the Hazardous Substance Response Trust Fund; and

H.J. Res. 732. Joint resolution making urgent supplemental appropriations for the fiscal year ending September 30, 1987, for emergency assistance to the Government of the Philippines.

MEASURES REFERRED

The following bills and joint resolution were read the first and second tiees by unanimous consent, and referred as indicated:

H.R. 4062. An act to provide for the conveyance of certain publac lands in Oconto and Marifette Counties, WI; to the Committee on Energy and Natural Resgurces.

H.R. 4316. An act to amend title 35, United States Code, and the National Aeronautics and Space Act gf 1958 with respect to the use of inventions in outer space; to the Committee on the Judiciary.

H.R. 4545. An act to authorize appropriations for the American Folklife Center for fiscal years 1987, 1988, afd 1989, and for other purposes; to the Committee on Rules and Administratign&

H.R. 5016. An act for the relief of Sueng Ho Jang and Sueng II Jang; to the Committee on the Judiciary.

H.R. 5167. An act to declare that the United States holds certain public domain lands in trust for the Pueblo of Zia; to the Committee on Energy and Natural Resources.

H.R. 5230. An act to amend the Public Health Service Act to extend the program of childhood vaccinations and to require the Secretary of Health and Human Services to maintain a 6-month stockpile of vaccines; to the Committee on Labor and Human Resources.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5259. An act to amend the Public Health Service Act to revise the authorities of the Alcohol, Drug Abuse, and Mental Health Administration; and

H.R. 5521. An act to extend until October 13, 1986, the emergency acquisition and net worth guarantee provisions of the Garn St. Germain Depository Institutions Act.

MEASURES HELD AT THE DESK

Pursuant to the order of the Senate of September 16, 1986, the following bill was held at the desk pending further disposition:

H.R. 2092. An act to amend the National Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal year 1987, and for other purposes;

The following bill was ordered held at the desk by unanimous consent pending further disposition:

H.R. 4899. An act to amend title 35, United States Code, with respect to patented processes and the patent cooperation industry.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 4492. An act to permit the transfer of certain airport property in Algona, Iowa;

H.R. 4838. An act to amend section 408 of the Federal Aviation Act of 1958 to ensure fair treatment of airline employees in airline mergers and similar transactions;

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today she had presented to the President of the United States the following enrolled bill:

S. 2095. An act to to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 2266: A bill to establish a ski area permit system on national forest lands established from the public domain, and for other purposes (Rept. No. 99-449).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

Treaty Doc. 98-9. United Nations Convention on Contracts for the International Sale of Goods (Exec. Rept. No. 99-20);

Treaty Doc. 98-27. Inter-American Convention on Letters Rogatory, with Protocol (Exec. Rept. No. 99-21);

Treaty Doc. 99-28. Convention on Wetlands of International Importance (Exec. Rept. No. 99-22); and

Treaty Doc. 98-29. Request for Advice and Consent to Withdraw a Reservation made to the 1975 Patent Cooperation Treaty (Exec. Rept. No. 99-23).

By Mr. PACKWOOD, from the Committee on Finance:

Louis F. Laun, of New York, to be Assistant Secretary of Commerce.

(The above nomination was reported from the Committee on Foreign Relations with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROTH:

S. 2831. A bill to amend title 18 of the United States Code to outlaw the sale and advertisement of harmful inhalants; to the Committee on the Judiciary.

By Mr. COCHRAN:

S. 2832. A bill to direct the Secretary of Commerce through the Patent and Trademark Office to reexamine patent application numbered 179,474 filed by Joseph W. Newman in August 1980, and for other purposers; to the Committee on the Judiciary.

By Mr. SPECTER :

S. 2833. A bill entitled the "Conrail Privatization Act of 1986"; to the Committee on Commerce, Science, and Transportation.

By Mr. BIDEN (for himself, Mr. BOSCHWITZ, Mr. PELL, and Mr. GRASSLEY):

S. 2834. A bill to require specific congressional authorization for certain sales, exports, leases, and loans of defense articles, and for other purposes; to the Committee on Foreign Relations.

By Mr. BINGAMAN (for himself, Mr. DECONCINI, Mr. SIMON, Mr. CRANSTON, Mr. GORE, Mr. SARBANES, Mr. MOYNIHAN, and Mr. MATSUNAGA):

S. 2835. A bill to establish literacy programs for individuals of limited English proficiency; to the Committee on Labor and Human Resources.

By Mr. BUMPERS (for himself, Mr. PRYOR, Mr. FORD, and Mr. DIXON):

S. 2836. A bill to amend the Agricultural Act of 1949 to modify the support price and marketing loan program for the 1986 crop of soybeans, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PELL:

S. 2837. A bill to amend the Federal Election Campaign Act of 1971, to provide free radio and television time to national committees in elections for Federal office; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BOSCHWITZ:

S. Con. Res. 162. A concurrent resolution commemorating the 100th anniversary of the birth of David Ben-Gurion; to the Commitee on the Judiciary.

By Mr. DECONCINI:

S. Con. Res. 163. A concurrent resolution expressing the sense of the Congress that the total number of Soviet diplomatic agents and consular officers in Washington, DC, and San Francisco should be reduced to equal the total number of American diplomatic agents and consular officers in Moscow and Leningrad; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH:

S. 2831. A bill to amend title 18 of the United States Code to outlaw the sale and advertisement of harmful inhalants; to the Committee on the Judiciary.

HARMFUL INHALANTS CONTROL ACT

● Mr. ROTH. Mr. President, I'm proud to offer a bill today that will go a long way to help thousands of young Americans who unwittingly embark on a slow death by inhaling butyl nitrite for kicks. This and other universal industrial compounds have gradually leached into America's subculture, causing consternation in Congress, confusion in the medical community, and frustration within law enforcement.

At this time last year I had never heard of "poppers," the street name for butyl nitrite. Unfortunately, this dangerous but legal compound was known all too well among thousands of Americans in search of a cheap but risky high.

It seems that contemporary thrill-seekers in communities all across America know how easy these chemicals are to get. Anyone with a dollar in his pocket and time on his hands can buy butyl nitrite in any novelty shop. Young people know that potent chemicals like that are theirs for the asking or taking. What they don't know is that they could get permanent brain damage from their mischievous curiosity.

Perhaps the most sinister side to this scenario is the abuse of common household cleaners inhaled by kids for an afternoon high. Young people who might not know any better are being encouraged openly in ads to buy and use these materials to get high. I am talking about glue, paint thinner, aerosol spray propellant, automobile degreasers, and typewriter correction fluid.

This problem is particularly significant right now as we set about searching for the right solutions to our Nation's chronic drug-abuse dilemma. These once-obscure chemical products are popular among would-be drug abusers precisely because they can't get or can't afford real narcotics. And they function as gateway drugs as well, taking inexperienced adolescents on that first step to progressively riskier and more severe substance abuse. That's why my legislation is critical.

Most chemical makers and retail merchants are disgusted at this deadly bastardization of certain otherwise useful modern chemicals. Tragically, however, a few are picking up huge profits making butyl nitrite and promoting it to our young people. My legislation clamps down on those few pivotal players without generating new problems for legitimate U.S. businesses.

The "Harmful Inhalants Control Act of 1986" gives the American law enforcement community the tools needed to prosecute these pernicious entrepreneurs.

This is an unusual situation. It is very clear who the bad guys are—the ones who sell or advertise these otherwise innocent items for the purpose of inducing intoxication. My bill offers the best solution: it outlaws the sale, advertising, mailing, or interstate transport of inhalants for use in getting high. With these provisions, this legislation would empower the courts to curtail crass promoters of hazardous chemicals as joy rides in a jar. And young substance abusers could be on their way to rehabilitation, instead of brain damage.

My colleagues may be interested to know that the chemical products industry supports this bill. It's a step forward against this bizarre type of substance abuse without excessive regulation of legitimate commerce. I urge my colleagues to join me in rounding out our drug laws by voting for this measure.●

By Mr. COCHRAN:

S. 2832. A bill to direct the Secretary of Commerce through the Patent and Trademark Office to reexamine patent application numbered 179,474, filed by Joseph W. Newman in August 1980, and for other purposes; to the Committee on the Judiciary.

REEXAMINATION OF A CERTAIN PATENT APPLICATION

Mr. COCHRAN. Mr. President, Joseph Newman, an inventor from Lucedale, MS, has been seeking a patent for his energy machine for 7 years. If his device works as claimed, it could revolutionize the energy industry and provide a nonpolluting and inexpensive source of energy. Despite his efforts to overcome the patent examiner's objections to his application, including the submission of affidavits from physicists, engineers, and other scientists saying that the device works, the Patent and Trademark Office has refused to issue a patent for the invention, claiming that it is a perpetual motion machine and, therefore, scientifically impossible. Mr. Newman has denied this, and his application does not claim that his invention is a perpetual motion machine. Mr. Newman has taken his case to Federal court, and litigation continues.

My Subcommittee on Energy, Nuclear Proliferation, and Government Processes of the Governmental Affairs Committee held a hearing on July 30 to examine the patent application process, with special attention to the Newman case. The subcommittee heard testimony from representatives of the Patent and Trademark Office and the National Bureau of Standards which had tested the Newman device and determined that it did not deliver more energy than it used.

Mr. Newman, who was accompanied by his attorney as well as a physicist and an engineer who had evaluated his device, testified that the Patent and Trademark Office failed to follow proper procedure in reviewing his application. He and his experts also testified that the National Bureau of Standards failed to properly assemble the device when testing it, causing the excess energy to be shunted to ground through a ground wire. Both Agencies, according to Mr. Newman and his expert witnesses, failed to evaluate the device in a fair and objective manner.

The testimony before our subcommittee was contradictory, and the claims of scientists were conflicting. The subcommittee hearing convinced me that there are unresolved questions concerning the procedures followed and the tests conducted in the Newman case. Mr. Newman deserves to receive a fair and impartial evaluation of his patent application and a competent, independent test to prove whether his machine works.

I am introducing legislation today to direct the retesting of the Newman Energy Machine by an independent university research facility and the reexamination by the Patent and Trademark Office of the patent application of Joseph W. Newman. The bill directs that this reexamination shall be completed within 90 days of enactment, and that an independent test of the device be conducted by a university research facility to be selected by Mr. Newman from the five identified in the bill. The bill authorizes such funds as may be necessary to conduct this independent testing.

Mr. President, I urge my colleagues to consider the subcommittee's hearing record on this case and to support this legislation. I ask unanimous consent that the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2832

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of Commerce acting through the Commissioner of patents and Trademarks, is directed to reexamine and reconsider patent application numbered 179,474, filed by Joseph W. Newman in August 1980. Reexamination shall be completed within 90 days after the date of enactment of this Act and shall include testing of the invention described in patent application numbered 179,474 by a testing facility chosen by Mr. Newman from the following list:

(1) Massachusetts Institute of Technology,

(2) Mississippi State University,

(3) Stanford University,

(4) The University of California at Berkeley, or

(5) The University of Mississippi.

If upon reexamination, it is determined that a patent shall be issued to Joseph W. Newman, such patent shall be accorded all

the rights of patents issued under title 35, United States Code.

SEC. 2. There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

By Mr. SPECTER:

S. 2833. A bill entitled the "Conrail Privatization Act of 1986"; to the Committee on Commerce, Science, and Transportation.

Mr. SPECTER. Mr. President, I am today introducing legislation entitled the Conrail Privatization Act of 1986, which provides for a public sale of Conrail. The purpose of this bill is to remove the railroad from the public sector to the private sector in a way which will yield the maximum gain to the American taxpayer, and which will preserve the present management and operation of Conrail.

Mr. President, the issue of the Conrail sale has been before the Congress now for more than 2 years. Finally the proposed sale to Norfolk Southern has been abandoned and I think this is for the good of the country. That proposed sale would have had devastating consequences for the Nation in terms of the antitrust implications in providing for a merger of Norfolk Southern, an 18,000-mile track, with Conrail, a 15,000-mile track.

As demonstrated in hearings before the Senate Judiciary Committee, the antitrust implications of that merger would have been very, very serious and I think for that reason, in the national interest, it should have been opposed. It was opposed, and it is in the national interest that Norfolk has now withdrawn from that proposed sale.

As for my State of Pennsylvania, it would have been enormously problemsome because it would have materially increased the cost of the transportation of coal from western Pennsylvania. It would have put in jeopardy some 15,000 jobs, the rail repair yards at Altoona, Hollidaysburg, Conway, the corporate headquarters in Philadelphia, and the Port of Philadelphia. We have now seen after the fight on the Senate floor—where the matter did pass but by a much narrower margin than originally anticipated, and where the seeds were laid for its ultimate defeat in the House of Representatives—the Norfolk offer has been withdrawn. There has been action in the House of Representatives to move ahead with a public offering. The legislation which I am introducing today will move ahead the process and provide the legislative vehicle for Senate action on this important matter.

Mr. President, I have a statement to insert for the RECORD, but one other note that I would make is the importance in the final sale that the compensation which has been deferred for the Conrail employees should and must be paid. Those employees have stepped aside and taken lesser compensation in order to permit Conrail to revitalize itself. As part of a public sale offering, and as a final package that deferred compensation must, as a matter of basic justice, be paid to those Conrail employees.

Mr. President, I ask unanimous consent that the full text of my statement be included in the RECORD as if presented in full on the Senate floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONRAIL PRIVATIZATION ACT

Mr. SPECTER. Mr. President, today I introduce "The Conrail Privatization Act of 1986"—legislation which provides for a return of Conrail to the private sector via the only acceptable manner, a public offering of stock.

I have been working toward this end for over 2 years—since the spring of 1984 when Secretary of Transportation Dole requested the submission of bids for the purchase of Conrail. Conrail is a major employer in my State, Pennsylvania, and I sought to ensure that the men and women who depended on Conrail for their livelihood—the workers in the Altoona, Hollidaysburg yards, the Conway yards, Pier 124 in Philadelphia, the Enold yards, and the Philadelphia corporate headquarters—could look forward to a future with a continuingly healthy company.

It became apparent to me more than 2 years ago that Conrail's future viability was essential not only for Pennsylvanians, but for the entire Northeast-Midwest region of this country, and indeed, for the future of the national rail transportation network. I vigorously opposed the proposal of Secretary Dole to merge Conrail with the Norfolk Southern Corp. when the antitrust questions raised by that combination proved to be insurmountable. I strongly fought for and urged a public offering which would provide a greater return to American taxpayers who had invested over $7 billion in the development of Conrail, and which would present none of the anti-competitive problems inherent in a merger scheme.

For these reasons, I am very happy today to introduce this bill which sets forth the procedures for a public offering of Conrail's stock, and which is supported by the railroad, by labor, and by the Secretary of Transportation. The legislation provides for a public offering within 30 days of enactment of the legislation, with the investment bankers to be chosen by the Secretary of Transportation, in consultation with the Secretary of the Treasury and the chairman of the board of directors of Conrail.

The Secretary of Transportation may elect to offer less than all of the U.S. shares for sale at the initial sale, and make those shares available for purchase at subsequent sales. In any case, the Secretary shall not offer any U.S. shares unless the estimated sum of the gross proceeds from the sale and the value of any warrants issued is at least $1,700 million. This certainly is a major improvement over the Norfolk Southern giveaway, against which I and others fought for so long.

Conrail's future financial health is assured by provisions mandating that $500 million in capital expenditures be made each fiscal year, and that $250 million in cash or cash equivalents remain on hand at the end of each fiscal year. In addition, formulas are established to ensure that no dividends are paid unless a certain amount of cumulative net income remains in Conrail's coffers.

Antitakeover provisions are also included, with a 5-year prohibition against any person, directly or indirectly, holding securities representing more than 7.5 percent of the total votes of all outstanding voting securities of the Corporation. No more than 20 percent of stock may be held by or for the benefit of persons not citizens of the United States, also for the first 5-year period. For that same 5-year period, no railroad (in the absence of specially provided authorization) can hold more than 7.5 percent of stock. The Norfolk Southern Corp. and CSX Corp., Conrail's competitors, are prohibited from applying for such authorization for a period of 3 years. Thus, contrary to a merger plan, rail competition will be preserved.

In addition to the provisions which guarantee the financial well-being of Conrail, there are sections which guarantee Conrail's employees well-deserved benefits on their back pay which had been deferred. The Definitive Agreement of September 17, 1985, between Conrail and its unions is included in the bill in order to ensure that these employees, who received below-industry wages for years in an effort to keep Conrail alive, are rewarded for their contributions. Conrail shall pay $200 million to present and former employees for compensation for these low wages, and they shall also receive their ESOP shares (representing 15 percent ownership in the company) upon the expiration of 90 days after the public stock sale.

Mr. President, this legislation represents the cumulative efforts of well over 2 years of hard work to return Conrail to the American public in a fair and equitable manner. I urge the support of my colleagues in this effort—let us return Conrail to the private sector by allowing all interested parties an opportunity to share in its bright future.

I ask that the bill be reprinted in the RECORD as though it were read in full on the floor here today.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2833

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Conrail Privatization Act of 1986."

(b) TABLE OF CONTENTS.—

SEC. 2. FINDINGS.

The Congress finds that—

(1) the bankruptcy of the Penn Central and other railroads in the Northeast and Midwest resulted in a transportation emergency which required the intervention of the Federal Government;

(2) the United States Government created the Consolidated Rail Corporation, which provides essential rail service to the Northeast and Midwest;

(3) the future of rail service in the Northeast and Midwest is essential and must be protected through rail service guarantees, consistent with the transfer of the Corporation to the private sector;

(4) the Northeast Rail Service Act of 1981 has achieved its purpose in allowing the Corporation to become financially self-sustaining;

(5) the Federal Government has invested over $7,000,000,000 in providing rail service to the Northeast and Midwest;

(6) the Government, as a result of its ownership and investment of taxpayer dollars in the Corporation, controls substantial assets, including cash of approximately $1,000,000,000;

(7) the Corporation's viability and sound performance allow it to be sold to the American public for a substantial sum through a public offering;

(8) a public offering of the Corporation's stock will preserve competitive rail service in the region, provide the greatest return to the Government, and protect employment;

(9) the Corporation's employees contributed significantly to the turnaround in the Corporation's financial performance and they should share in the Corporation's success through a settlement of their claims for reimbursement for wages below industry standard, and a share in the common equity of the Corporation through the employee stock ownership plan;

(10) the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 are met by this title;

(11) the Secretary of Transportation has discharged the responsibilities of the Department of Transportation under the Northeast Rail Service Act of 1981 with respect to the sale of the Corporation as a single entity.

SEC. 3. PURPOSE

The purpose of this Act is—

(1) to transfer the interest of the United States in the common stock of the Corporation to the private sector through the broadest practicable distribution of shares, in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of its rail service in the Northeast and Midwest, provides for the protection of the public interest in a sound rail transportation system, and secures the maximum proceeds to the United States.

SEC. 4. DEFINITIONS.

For the purposes of this Act—

(1) the term "capital expenditures" means amounts expended by the Corporation and its subsidiaries for replacement or rehabilitation of, or enhancements to, the railroad plant, property, trackage, and equipment of the Corporation and its subsidiaries, as determined in accordance with generally accepted accounting principles, and in interpreting generally accepted accounting principles, no amount spent on normal repair, maintenance, and upkeep to such railroad plant, property, trackage, and equipment in the ordinary course of business shall constitute capital expenditures;

(2) the term "Commission" means the Interstate Commerce Commission;

(3) the term "Corporation" means the Consolidated Rail Corporation;

(4) the term "cumulative net income" means, for any period, the net income of the Corporation and its consolidated subsidiaries (after provision for income taxes) as determined in accordance with generally accepted accounting principles, before provision for expenses related to—

(A) amounts paid by the Corporation under section 114(e), and comparable payments made to present and former employees of the Corporation not covered by such section; and

(B) the aggregate value of the shares distributed under section 114(f);

(5) the term "person" means an individual, corporation, partnership, association, trust, or other entity or organization, including a government or political subdivision thereof or a governmental body;

(6) the term "perferred stock" means any class or series of preferred stock, and any class or series of common stock having liquidation and dividend rights and preferences superior to the common stock of the Corporation offered for sale on or after the sale date;

(7) the term "public offering" means an underwritten offering to the public of such common stock of the Corporation as the Secretary of Transportation determines to sell under section 102;

(8) the term "sale date" means the date on which the initial public offering is closed;

(9) the term "subsidiary" means any corporation more than 50 percent of whose outstanding voting securities are directly or indirectly owned by the Corporation;

(10) the term "United States share" means a share of common stock of the Corporation held by the United States Government on the date of the enactment of this Act; and

(11) the term "warrant" means an instrument entitling its owner to purchase, at a prescribed price or prices for a prescribed period, common stock of the Corporation.

TITLE I—CONRAIL

SUBTITLE A—SALE OF CONRAIL

SEC. 101. PREPARATION FOR PUBLIC OFFERING.

(a) PUBLIC OFFERING MANAGERS.—(1) Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of the Treasury and the Chairman of the Board of Directors of the Corporation, shall retain the services of investment bankers to manage the public offering (hereafter in this subtitle referred to as the "co-managers").

(2) In selecting the co-managers under paragraph (1), recognition and consideration shall be given to contributions made by particular investment banking firms before the date of the enactment of this Act in promoting a public offering.

(b) PAYMENT TO THE UNITED STATES.—Not later than 30 days after the date of the enactment of this Act, the Corporation shall transfer to the Secretary of the Treasury $300,000,000.

(c) REGISTRATION STATEMENT.—The Corporation shall prepare and cause to be filed with the Securities and Exchange Commission a registration statement with respect to the securities to be offered and sold in accordance with the securities laws and the rules and regulations thereunder in connection with the initial and any subsequent public offering.

(d) LIMIT ON AUTHORITY TO PURCHASE STOCK.—Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following new paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation shall terminate upon the date of the enactment of the Conrail Privatization Act.".

SEC. 102. PUBLIC OFFERING.

(a) STRUCTURE OF PUBLIC OFFERING.—(1) After the registration statement referred to in section 101(c) is declared effective by the Securities and Exchange Commission, the Secretary of Transportation, in consultation with the Secretary of the Treasury, the Chairman of the Board of Directors of the Corporation, and the co-managers, shall offer the United States shares for sale in a public offering, except as provided in paragraphs (2) and (3).

(2) The Secretary of Transportation, after such consultation, may elect to offer less than all of the United States shares for sale at the time of the initial sale.

(3) Under no circumstances shall the Secretary of Transportation offer any of the United States shares for sale unless, before the sale date, the Secretary determines, after such consultation, that the estimated sum of the gross proceeds from the sale of all the United States shares and the value of any warrants issued under subsection (f) is at least $1,700,000,000.

(b) SUBSEQUENT SALES.—If the Secretary of Transportation elects to offer for sale less than all the United States shares, the Secretary shall sell the remaining United States shares in subsequent public offerings.

(c) CONSENT OF THE CORPORATION NOT REQUIRED.—Any public offerifg under this sec-

tion may be made without the consent of the Corporation.

(d) AUTHORITY TO REQUIRE STOCK SPLITS.—(1) The Secretary of Transportation, in consultation with the co-managers and the Chairman of the Board of Directors of the Corporation, may, in connection with the initial public offering described in subsection (a), before the filing of the registration statement referred to in section 101(c), require the Corporation to declare a stock split or reverse stock split.

(2) The Corporation shall take such action as may be necessary to comply with the Secretary's requirements under this subsection.

(e) CANCELLATION OF OTHER SECURITIES HELD BY THE UNITED STATES.—(1) In consideration for amounts paid to the United States under section 101(b), and for any warrants issued under subsection (f) of this section, the Secretary of Transportation shall, concurrent with the initial public offering described in subsection (a), deliver to the Corporation all preferred stock, 7.5 percent debentures, and contingent interest notes of the Corporation. The Corporation shall immediately cancel such debentures, preferred stock, and contingent interest notes, and any interest of the United States in such debentures, preferred stock, and contingent interest notes shall be thereby extinguished.

(2) For purposes of regulation by the Commission and State public utility regulation, and for purposes of reporting to the Securities and Exchange Commission, the actions authorized by this subsection, the public offering, and the value of the consideration received therefor shall not change the value of the Corporation's assets net of depreciation and shall not be used to alter the calculation of the Corporation's stock or asset values, rate base, expenses, costs, returns, profits, or revenues, or otherwise affect or be the basis for a change in the regulation of any railroad service, rate, or practice provided or established by the Corporation, or any change in the financial reporting practice of the Corporation.

(f) ISSUANCE OF WARRANTS.—(1) Before the registration statement referred to in section 101(c) is declared effective by the Securities and Exchange Commission, the Secretary of Transportation, in consultation with the Secretary of the Treasury, the Chairman of the Board of Directors of the Corporation, and the co-managers, shall determine whether to require the Corporation to issue warrants to the United States in conjunction with the public offering, if it will increase the amount to be realized by the United States.

(2) The Corporation shall take such action as may be necessary to comply with the Secretary's requirements under this subsection.

SEC. 103. FEES.

The Secretary of Transportation, in consultion with the Secretary of the Treasury and the Chairman of the Board of Directors of the Corporation, shall agree to pay to investment bankers and other persons participating in the public offering the absolute minimum amount in fees necessary to carry out the public offering.

SUBTITLE B—OTHER MATTERS RELATING TO THE SALE

SEC. 111. RAIL SERVICE GUARANTEES.

(a) FIVE-YEAR RESTRICTIONS ON THE CORPORATION.—During a period of 5 years beginning on the date of the enactment of this Act, the following restrictions shall apply to the Corporation:

(1) The Corporation shall spend in each fiscal year the greater of (A) an amount equal to the Corporation's depreciation for financial reporting purposes for such year or (B) $500,000,000, in capital expenditures. With respect to any fiscal year, the Corporation's Board of Directors may reduce the required capital expenditures for each year to an amount which the Board determines is justified by prudent and engineering practices, except that the Corporation's capital expenditures shall not be less than $350,000,000 for its first fiscal year beginning after the sale date, a total of $700,000,000 for its first two fiscal years beginning after the sale date, a total $1,050,000,000 for its first three fiscal years beginning after the sale date, a total of $1,400,000,000 for its first four fiscal years beginning after the sale date, and a total of $1,750,000,000 for its first five fiscal years beginning after the sale date.

(a)(A) Except as otherwise provided under subparagraph (B), no common stock dividend or preferred stock dividend may be declared or paid by the Corporation.

(B)(i) Concurrent with the declaration of any common stock dividend or preferred stock dividend, the Corporation's Board of Directors shall find and certify that, after payment of such dividend the Corporation will be in compliance with the requirements of paragraph (1) for the fiscal year in which such dividend payment is made.

(ii) Concurrent with the declaration of any common stock dividend, the Corporation's Board of Directors shall find and certify that, after payment of such dividend, the cumulative amount of all common stock dividends paid after the sale date will not exceed 50 percent of—

(I) the cumulative net income of the Corporation for the period beginning after the end of the last fiscal quarter of the Corporation ending before the sale date, less

(II) the cumulative amount of any preferred stock dividends declared and paid after the sale date.

(C) For purposes of this paragraph—

(i) the term "common stock dividend" means—

(I) the declaration or payment by the Corporation of any dividends in cash, property, or other assets with respect to any shares of the common stock of the Corporation (other than dividends payable solely in shares of the common stock of the Corporation);

(II) the application of any of the property or assets of the Corporation to the purchase, redemption, or other acquisition or retirement of any shares of the common stock of the Corporation;

(III) the setting apart of any sum for the purchase, redemption, or other acquisition or retirement of any shares of the common stock of the Corporation; and

(IV) the making of any other distribution, by reduction of capital or otherwise, with respect to any shares of the common stock of the Corporation; and

(ii) the term "preferred stock dividend" means—

(I) the declaration or payment by the Corporation of any dividends in cash, property, or other assets with respect to any shares of the preferred stock of the Corporation;

(II) the application of any of the property or assets of the Corporation to the purchase, redemption, or other acquisition or retirement of any shares of the preferred stock of the Corporation;

(III) the setting apart of any sum for the purchase, redemption, or other acquisition or retirement of any shares of the preferred stock of the Corporation; and

(IV) the making of any other distribution, by reduction of capital or otherwise, with respect to any shares of the preferred stock of the Corporation.

(3) The Corporation shall continue its affirmative action program and its minority vendor program, substantially as such programs were being conducted by the Corporation as of February 8, 1985, subject to any provisions of applicable law.

(4) The locomotive shop and car repair shop in Altoona/Hollidaysburg, Pennsylvania, and the corporate headquarters in Philadelphia, Pennsylvania, shall be retained.

(b) THREE-YEAR RESTRICTIONS ON THE CORPORATION.—During a period of 3 years beginning on the date of the enactment of this Act, the following restrictions shall apply to the Corporation:

(1) The Corporation shall not permit to occur any transaction or series of transactions (other than in the ordinary course of business of the Corporation and its subsidiaries) whereby all or any substantial part of the railroad assets and business of the Corporation and its subsidiaries taken as a whole are sold, leased, transferred, or otherwise disposed of to any corporation or entity other than to a wholly owned subsidiary of the Corporation.

(2) The Corporation shall have on hand at the end of each fiscal year cash or cash equivalents of at least $250,000,000.

(3) The Corporation shall offer any line for which an abandonment certificate is issued by the Commission to a purchaser who agrees to provide interconnecting rail service. Such offer shall last for the 120-day period following the date of issuance of the abandonment certificate and the price for such abandoned line shall be equal to 75 percent of net liquidation value as determined by the Commission, pursuant to regulations that had been issued under section 308 of the Regional Rail Reorganization Act of 1973.

SEC. 112. OWNERSHIP LIMITATIONS.

(a) GENERAL.—(1)(A) During a period of 5 years beginning on the date of the enactment of this Act no person, directly or indirectly, may acquire or hold securities representing more than 7.5 percent of the total votes of all outstanding voting securities of the Corporation.

(B) This paragraph shall not apply—

(i) to the employee stock ownership plan (or successor plans) of the Corporation,

(ii) to the Secretary of Transportation,

(iii) to a railroad as described under subsection (b)(1),

(iv) to underwriting syndicates holding shares for resale, or

(v) in the case of shares beneficially held by others, to commercial banks, broker-dealers, clearing corporations, or other nominees.

(2) During a period of 5 years beginning on the date of the enactment of this Act, not more than 20 percent of the stock of the Corporation may be held by or for the benefit of persons not citizens of the United States or entities owned or controlled by persons not citizens of the United States.

(b) RAILROADS.—(1)(A) During a period of 5 years beginning on the date of the enactment of this Act, no railroad may purchase or hold, directly or indirectly, more than 7.5 percent of any class of stock of the Corporation unless such railroad files for approval and authorization of the Commission under section 11343 of title 49, United States Code, except as provided in paragraph (2). If such an application is filed, the Commission shall give substantial weight to any views of the

Secretary of Transportation regarding such application which may be submitted to the Commission.

(B) During a period of 5 years beginning on the date of the enactment of this Act, any railroad which purchases or holds no more than 7.5 percent of any class of stock of the Corporation shall vote such stock in the same proportion as all other common stock of the Corporation is voted. During such 5-year period, any railroad which purchases or holds more than 7.5 percent of such stock shall, unless such acquisition has been approved by the Commission as described in subparagraph (A), vote such stock as directed by the Commission, or, in the absence of any such direction, in the same proportion as all other common stock of the Corporation is voted. As used in this paragraph, the term "railroad" means a class I railroad as determined by the Commission under the definition in effect on the date of the enactment of this Act, and includes any entity controlling, controlled by, or under common control with any railroad (other than the Corporation or its subsidiaries).

(2)(A) Norfolk Southern Corporation, CSX Corporation, and their successors and assigns, shall not purchase or own, directly or indirectly, more than 7.5 percent of the common stock of the Corporation.

(B) The Commission shall not consider any application filed under section 11343 or 11344 of title 49, United States Code, from—

(i) the Corporation; or

(ii) Norfolk Southern Corporation, CSX Corporation, the successors and assigns of such corporations, and any person controlling, controlled by, or under common control with such corporations, successors, and assigns, for authority to enter into any merger or consolidation, or any other transaction prohibited under subparagraph (A), between the Corporation and any entity described in clause (ii).

(C) Subparagraphs (A) and (B) shall cease to be effective upon—

(i) the guarantee of any loan to the Corporation under section 115; or

(ii) the expiration of 3 years after the date of the enactment of this act.

When subparagraph (A) and (B) cease to be effective, entities described in subparagraph (B)(ii) shall be considered railroads for purposes of paragraph (1).

SEC. 113 BOARD OF DIRECTORS.

Except as may be prescribed by the Secretary of Transportation in section 115, the Board of Directors of the Corporation shall be comprised as follows:

(1) Except as provided in paragraph (3), with respect to the period ending June 30, 1987, the board shall remain as it exists on the date of the enactment of this Act, with any vacancies being filled by directors nominated and elected by the remainder of the members of the board.

(2)(A) Except as provided in paragraph (3), with respect to the perigd beginning July 1, 1987, the board shall consist of—

(i) 3 directors appointed by the Secretary of Transportation;

(ii) the Chief Executive Officer and the Chief Operating Officer of the Corporation; and

(iii) 8 directors appointed from among persons knowledgeable in business affairs by the special court established under section 209 of the Regional Rail Reorganization Act of 1973, in consultation with the Secretary of Transportation and the Chairman of the Board of Directors of the Corporation, and recognizing the need for any importance of—

(I) continuity in the direction of the Corporation's business and affairs;

(II) preserving the value of the investment of the United States in the Corporation; and

(III) preserving essential rail service provided by the Corporation.

(B) The Secretary of Transportation and the special court may appoint directors under subparagraph (A) from among existing directors of the Corporation.

(3)(A) After the sale date, one director shall be elected by the public shareholders of the Corporation for each increment of 12.5 percent of the interest of the United States in the Corporation that has been sold through public offering.

(B) With respect to the period ending June 30, 1987—

(i) the first director elected under this paragraph shall replace the member of the board who became a director most recently from among—

(I) directors appointed by the United States Railway Association, or elected under paragraph (1) to replace such a director, and

(II) directors appointed by the Secretary of Transportation, or elected under paragraph (1) to replace such a director;

(ii) the second director elected under this paragraph shall replace the member of the Board who became a director most recently from among directors described in clause (i)(I) or (II), whichever group the first director replaced under this subparagraph was not a member of; and

(iii) subsequent directors elected under this paragraph shall replace members alternately from the group described in clause (i)(I) and (II).

(C) With respect to the period beginning July 1, 1987, directors elected under this paragraph shall replace directors appointed by the special court under paragraph (2)(A)(iii), in the order designated by the special court in a list to be issued at the time of such original appointments.

(D) With respect to the period beginning on the first date more than 50 percent of the interest of the United States in the Corporation has been sold through public offering and ending when 100 percent of such interest has been sold—

(i) all remaining members of the board referred to in paragraph (2)(A)(iii), and

(ii) with respect to the period ending June 30, 1987, all remaining members of the board, except 3 members appointed by the Secretary of Transportation and the Chief Executive Officer and the Chief Operating Officer of the Corporation,

shall be replaced by directors elected by the public shareholders of the Corporation.

(E) After 100 percent of the interest of the United States in the Corporation has been sold, any remaining directors appointed by the Secretary of Transportation, the United States Railway Association, or the special court referred to under paragraph (2)(A)(iii), shall be replaced by directors elected by the public shareholders of the Corporation.

(F) Nothing in this paragraph shall be construed to prohibit any director referred to in this section from being elected as a director by the public shareholders of the Corporation.

(4)(A) No director appointed or elected under this section shall be an employee of the United States, except as provided in section 115 or as elected by the public shareholders of the Corporation.

(B) No director appointed or elected under this section shall be an employee of the Corporation, except as provided in paragraph (2)(A)(ii) or as elected by the public shareholders of the Corporation.

SEC. 114. PROVISIONS FOR EMPLOYEES.

(a) TRANSITIONAL EMPLOYEE PROTECTION.—Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 is amended to read as follows:

"(2) Notwithstanding any other provision of law—

"(A) upon exhaustion of appropriated funds available for payment of benefits or expenses of administration of the Railroad Retirement Board (hereafter in this section referred to as the 'Board') under this section, or on the expiration of 60 days after the date of enactment of the Conrail Privatization Act, whichever first occurs, the United States shall have no further liability under this section, but the Corporation shall—

"(i) as agent for the Board, pay benefits under this section, without reimbursement, in such amounts and to such eligible employees as the Board shall designate, subject to the limitations prescribed in the benefit schedules issued under subsection (a); and

"(ii) on a periodic basis determined by the Board, advance to the Board its necessary expenses of administration, including expenses reasonably required for close-out of the program of labor protection under this section and for technical transition to the program of labor protection required by the Conrail Privatization Act, which advances shall be made without reimbursement.

"(B) The Corporation shall promptly honor the Board's requests for advances under this paragraph as due and payable liquidated debts, subject to later adjustment after audit by the Inspector General of the Board. The Board is authorized to receive and apply Corporation funds advanced under this paragraph for administration of this section and to refund to the Corporation any excess administrative funds advanced by the Corporation.

"(C) The Corporation shall be deemed subrogated to the right of the Board to recover any benefit paid by the Corporation as agent for the Board that was improvidently paid under this paragraph, and the Board shall cooperate with the Corporation in its effort to recover any such payment; but the Corporation shall have no claim against the Board for such payment, and the Board shall not be made a real party in interest to any lawsuit or to any proceeding with respect to recovery of such payment.

"(D) Benefits provided by the Corporation, as agent for the Board, shall, for purposes of this title, be deemed to have been made available under section 713 of this title.".

(b) DISPUTE RESOLUTION.—Section 701 of the Regional Rail Reorganization Act of 1973 is further amended by addifg at the end thereof a new subsection as follows:

"(e) Any dispute or controversy regarding eligibility for benefits under this section shall be determined under such procedures as the Board may by regulation prescribe. Subject to administrative reconsideration by the Board under its own procedures, findings of fact and conclusions of law of the Board in determination of any claim for such benefits shall, in the absence of fraud or an action exceeding the Board's jurisdiction, be binding and conclusive for all purposes and shall not be subject to review in any manner. For purposes of administration

of this section, the administrative powers and penalties set forth in sections 9 and 12 of the Railroad Unemployment Insurance Act shall apply as if incorporated herein.".

(c) REPEAL OF SECTION 701.—Section 701 of the Regional Rail Reorganization Act of 1973 is repealed effective on the sale date. Notwithstanding this repeal—

(1) any dispute or controversy regarding benefits under section 701 shall be determined under the terms of the law in effect prior to such repeal; and

(2) the Railroad Retirement Board shall take such actions as may be necessary to complete administration and closeout of the section 701 program.

(d) CONTINUING RESPONSIBILITIES.—(1) On and after the sale date, the Corporation shall provide the protection for its employees described in "Part III, Article III, Employee Protection", of the "Definitive Agreement of September 17, 1985, By and Between Conrail and the Undersigned Representatives of Conrail's Agreement Employees" and Appendix 3 thereto, together with any amendments thereto, or under any other terms and conditions as shall be agreed between the Corporation and the representatives of its employees.

(2) The Corporation shall pay, as designated by the Railroad Retirement Board, any remaining benefits under section 701 of the Regional Rail Reorganization Act of 1973 that accrued, but were not disbursed, prior to the sale date.

(3) The Railroad Retirement Board shall transfer to the Corporation such information regarding administration of the labor protection program under such section 701 as may be reasonably necessary for the Corporation to discharge its responsibilities under this subsection, including the individual claim records of employees of the Corporation.

(4) The United States shall have no liability for benefits under this subsection.

(e) COMPENSATION FOR WAGES BELOW INDUSTRY STANDARD.—The Corporation shall pay $200,000,000 to present and former employees subject to collective bargaining agreements, in accordance with the terms and conditions in the Definitive Agreement referred to in subsection (d)(1), or as otherwise agreed between the parties.

(f) ESOP TRANSACTIONS.—(1) As soon as practicable after the date of the enactment of this Act, the employee stock ownership plan of the Corporation (hereafter in this subsection referred to as the "ESOP") shall be amended to provide that—

(A) the shares of the ConRail Equity Corporation preferred stock held by the ESOP shall be surrendered by the ESOP in exchange for an equal number of shares of the common stock of the Corporation, and such common stock of the Corporation shall be allocated by the ESOP to the same persons in the same amounts as the shares of ConRail Equity Corporation preferred stock had been allocated; and

(B) the remaining shares of the ConRail Equity Corporation preferred stock held by the Corporation shall be cancelled, and an equal number of shares of the common stock of the Corporation shall be contributed by the Corporation to the ESOP, which shares shall be allocated by the ESOP to the ESOP participants in accordance with the formula set forth in section 2 of Article II of Part III of the Definitive Agreement referred to in subsection (d)(1), and in accordance with a comparable formula for present and former employees of the Corporation not covered by such section of the Definitive Agreement, except that no contribution by the Corporation to the ESOP shall be made which would affect the status of the ESOP, or of any of the employee benefit plans maintained by the Corporation or any affiliate of the Corporation, as an employee stock ownership plan under the Internal Revenue Code of 1954.

(2)(A)(i) As soon as practicable after the expiration of 90 days after the sale date, the ESOP shall distribute all of the stock in the accounts of its participants and beneficiaries, except as provided in clause (ii).

(ii) Fractional shares shall not be distributed under clause (i). Shares equal to the aggregate amount of fractional shares shall be surrendered by the ESOP and redeemed by the Corporation for cash at the average closing price for the common stock of the Corporation on a national securities exchange for the 10 business days immediately preceding the date of distribution under clause (i), or, if the common stock of the Corporation is not listed on a national securities exchange, at the average closing price for such stock for such 10 business days as appearing in any regularly published reporting or quotation service, and the proceeds of such redemption shall be distributed by the ESOP to the same participants and beneficiaries and the same amounts as the fractional shares had been allocated.

(B) After completing the distribution under subparagraph (A), the ESOP shall terminate.

(3) The Corporation shall distribute any shares of its common stock which, because of the exception under paragraph (1)(B), could not be contributed to the ESOP to those persons to whom the ESOP would have allocated such shares pursuant to paragraph (1)(B) had such shares been contributed to the ESOP.

(4) For purposes of Rule 144 promulgated under the Securities Act of 1933, each share of the common stock of the Corporation distributed under this subsection shall be deemed to have been beneficially owned by the recipient, as of the date of such distribution, for a period of three years.

SEC. 115. ESSENTIAL RAIL SERVICE LOAN GUARANTEES.

At any time before the expiration of the ten year period beginning on the date of the enactment of this Act, the Secretary of Transportation may, if the Corporation requests and the Secretary of Transportation determines that it is in the public interest and is necessary for the Corporation to continue to provide essential rail service, arrange to guarantee a loan or loans of up to a total of $500,000,000, under such terms and conditions as the Secretary of Transportation shall prescribe, which may include representation on the Board of Directors of the Corporation by the Secretary of Transportation and the Secretary of the Treasury, or their designees.

SEC. 116. CERTAIN ENFORCEMENT RELIEF.

(a) ENFORCEMENT ACTIONS.—The Secretary of Transportation, with respect to any provision of section 111 or 112, and any person who suffers direct economic injury as a result of an alleged violation by the Corporation, with respect to the provisions of section 111(a) (1) and (2), and (b)(2), and section 112, may bring an action to require compliance with such provision.

(b) SPECIAL COURT.—Any action brought under this title shall be brought before the special court established under section 209 of the Regional Rail Reorganization Act of 1973. Such special court may limit the enforcement of a restriction under section 111, if the effect of such restriction would be to substantially impair the continued viability of the Corporation.

SUBTITLE C—MISCELLANEOUS TECHNICAL AND CONFORMING AMENDMENTS AND REPEALS

SEC. 121. ABOLITION OF UNITED STATES RAILWAY ASSOCIATION.

(a) ABOLITION.—Effective January 1, 1987, the United States Railway Association is abolished.

(b) TRANSFER OF SECURITIES AND RESPONSIBILITIES.—(1) Any securities of the Corporation held by the United States Railway Association shall, upon the date of the enactment of this Act, be transferred to the Secretary of Transportation.

(2) If, on the date the United States Railway Association is abolished under subsection (a), such association shall not have completed the termination of its affairs and the liquidation of its assets, the duty of completing such winding up of its affairs and liquidation shall be transferred to the Secretary of Transportation, who for such purposes shall succeed to all the powers, duties, rights, and obligations of such association.

(c) FINANCING AGREEMENT.—(1) On January 1, 1987, the Amended and Restated Financing Agreement, dated May 10, 1979, between the United States Railway Association and the Corporation, together with any and all rights and obligations of or on behalf of any person with respect to such agreement, shall terminate and be of no further force or effect, except for those provisions specifying terms and conditions for payments made to the United States with respect to debentures, preferred stock, and contingent interest notes.

(2) Effective as of the sale date, those provisions of the Financing Agreement referred to in paragraph (1) shall terminate.

SEC. 122. APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE.

Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following new subsection:

"(k) GOVERNING PROVISIONS AFTER SALE.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors and employees after the sale date, other than with regard to—

"(1) section 102;

"(2) section 201(d);

"(3) section 203, but only with respect to information relating to proceedings before the special court established under section 209(b);

"(4) section 209, other than subsection (f) thereof;

"(5) section 216(f)(8), but only as such authority applies to activities related to the ESOP and related trust before the sale date;

"(6) section 216(f)(9), but only as such indemnification applies to activities relating to the ESOP and related trust before the sale date;

"(7) section 216(f)(10) with respect to all securities of the Corporation issued or transferred before the sale date and all securities of ConRail Equity Corporation and all interests in the ESOP;

"(8) section 217 (c) and (e);

"(9) subsection (b) of this section, but only with respect to matters covered by the last sentence of such subsection;

"(10) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation before the sale

of the interest of the United States in the common stock of the Corporation;

"(11) section 302, but only to the extent of (A) the creation and maintenance of the power and authority of the Corporation to operate rail service and to rehabilitate, improve, and modernize rail properties, and (B) the creation and maintenance of the powers of the Corporation as a railroad in any State in which it operates as of the sale date;

"(12) section 303(b) (1) and (2), but only to the extent of establishing the legal effect of the conveyance of property ordered and of the deeds and other instruments executed, acknowledged, delivered, or recorded in connection therewith and the quality of title acquired in such property;

"(13) section 303(b)(3)(B) with respect to the effect of the assignment, conveyance, or assumption as set forth in the last sentence of such subparagraph (B);

"(14) section 303(b)(5);

"(15) section 303(b)(6), but only with respect to establishing and maintaining the rights of the Corporation with respect to, limiting its obligations with respect to, and establishing the status of, the employee pension and welfare benefit plans transferred to the Corporation thereunder and with respect to the exclusivity of the jurisdiction of the special court and the limitation of jurisdiction of other courts;

"(16) section 303(e);

"(17) section 304, but only with respect to the finality of abandonments completed before the sale date pursuant to the authority thereof;

"(18) section 304, but only as to the effect, and continuing administration, of supplemental transactions consummated before the sale date;

"(19) section 308, but only (A) as to the finality of abandonments completed before the sale date and (B) as to abandonments of lines where a notice or notices of insufficient revenues with respect to such lines have been filed before November 1, 1985;

"(20) section 601(a)(2), but only with respect to activities before the sale date;

"(21) section 601 (b)(2) and (b)(3), but only with respect to issuance of and transactions in any security of the Corporation before the sale date;

"(22) section 702(e);

"(23) section 703;

"(24) section 704;

"(25) sections 706(a), 707, and 708(a), but only insofar as they establish part of the prevailing status quo for the Corporation's employees' rates of pay, rules, and working conditions, such provisions to continue to apply unless changed pursuant to section 6 of the Railway Labor Act;

"(26) section 709;

"(27) section 710(b)(1);

"(28) section 711; and;

"(29) section 714, but only with regard to disputes or controversies specified in such section that arose before the sale date.".

SEC. 123. MISCELLANEOUS AMENDMENTS AND REPEALS.

(a) REGIONAL RAIL REORGANIZATION ACT OF 1973 REPEALS.—The following provisions of the Regional Rail Reorganization Act of 1973 (together with any items relating to such provisions contained in the table of contents of such Act) are repealed:

(1) Title IV (45 U.S.C. 761 through 769c).

(2) Section 713 (45 U.S.C. 7971).

(b) REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS.—(1) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended by inserting after paragraph (17) a new paragraph as follows:

"(17A) 'sale date' means the date on which the initial public offering of the securities of the Corporation is closed under the Conrail Privatization Act;".

(2) Section 217(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(c)) is amended by striking ", until the property" and all that follows, and inserting in lieu thereof "the statutory payment date of which, determined without regard to any extensions of time for filing, occurs on or before January 1 of the year in which the sale date occurs, but in no event before January 1, 1987.".

(3) Section 217(e) of such Act (45 U.S.C 727(e)) is amended by striking "and shall collect".

(c) AMENDMENTS AND REPEALS OF OTHER RAIL LAWS.—(1)(A) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C 1105 is amended—

(i) by inserting "or title I of the Conrail Privatization Act" after "subtitle" each place it appears; and

(ii) in the second sentence of subsection (c), by inserting ", as the case may be," after the insertion made by clause (i) of this subparagraph.

(B)(i) The following provisions of the Northeast Rail Service Act of 1981 are repealed:

(I) Section 1154 (45 U.S.C. 1107).

(II) Section 1161 (45 U.S.C. 1110).

(III) Section 1166 (45 U.S.C. 1114).

(IV) Subsection (c) of section 1167 (45 U.S.C. 1115).

(ii) The items relating to such sections 1154, 1161, and 1166 in the table of contents of such Act are repealed.

(2) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended by striking out "(A)" and by striking out all that follows "improved asset utilization;".

(3) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(A) in subsection (a)(1), by striking out all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking out all after "costs" the second time it appears through "subsidy".

(4) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is repealed.

(5) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended—

(A) by striking out "(1)" in the first paragraph;

(B) by striking all that follows "time" in the first paragraph and inserting in lieu thereof a period; and

(C) by striking out paragraph (2).

(6) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(7) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking out "by the Consolidated Rail Corporation or".

(d) PLAN FOR CONTINUATION OF RAIL SERVICE.—In the event the Corporation files for bankruptcy, the Secretary of Transportation shall develop and submit to the appropriate court a reorganization plan for the Corporation which maximizes rail service and transportation competition. Such court shall give substantial weight to the Secretary's plan.

SEC. 124. LIABILITY OF DIRECTORS.

(a) IN GENERAL.—No person referred to in section 216(f)(8)(C)(i), (ii), or (iii) of the Regional Rail Reorganization Act of 1973 shall be liable, for money damages or otherwise, to any party by reason of the fact that such person is or was a director, if, with respect to the subject matter of the action, suit, or proceeding, such person was fulfilling a duty which such person in good faith reasonably believed to be required by law or vested in such person in his capacity as a director of the Corporation, in connection with any action taken under this title.

(b) EXCEPTION.—This section shall not apply to claims arising out of the Securities Act of 1933, the Securities Exchange Act of 1934, or the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities, which claims are in connection with a public offering under section 102 of this Act.

SEC. 125. CHARTER AMENDMENT.

Within 60 days after the date of the enactment of this Act, the Corporation shall amend its Articles of Incorporation to contain the following provision, which provision shall not be subject to amendment or repeal:

"It shall be a fundamental purpose of the Corporation to maintain continued rail service in its service area.".

SEC. 126. STATUS OF CONRAIL AFTER SALE.

The Corporation shall be a rail carrier as defined in section 10102(19) of title 49, United States Code, notwithstanding this title.

SEC. 127. EFFECT ON CONTRACTS.

Nothing in this title shall affect any obligation of the Corporation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sales agreements, in accordance with their terms.

SEC. 128. RESOLUTION OF CERTAIN ISSUES.

(a) EMPLOYEE ISSUES.—Section 114 completely and finally—

(1) extinguishes all employee rights, and any obligation of the United States, under section 401(e) of the Regional Rail Reorganization Act of 1973 as in effect immediately before the date of the enactment of this Act;

(2) resolves any and all claims against the Corporation or any other entity arising under the Definitive Agreement referred to in section 114(d)(1);

(3) resolves all claims to pay entitlements arising out of the pay increase deferrals by present and former employees of the Corporation under the Agreement of May 5, 1981, between Contrail and Certain Labor Organizations for Labor Contributions to Self-Sufficiency for Conrail;

(4) resolves all issues raised by notices served by representatives of such employees under section 6 of the Railway Labor Act proposing repayment of or compensation for such deferrals; and

(5) resolves all claims against the Railway Labor Executives' Association or the Corporation by any adviser, consultant, or other person who has provided services to such association in connection with any matter referred to in this title.

(b) CORPORATION ACTIONS.—The Corporation shall not be considered to be in breach, default, or violation of any agreement to which it is a party, notwithstanding any provision of such agreement, because of any provision of this title or any action the Corporation is required to take under this title.

(c) RIGHT TO SUE WITHDRAWN.—The United States hereby withdraws any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person with respect to any claimns for damages or other monetary compensation arising out of this title.●

By Mr. BIDEN (for himself, Mr. BOSCHWITZ, and Mr. PELL):

S. 2834. A bill to require specific congressional authorization for certain sales, exports, leases, and loans of defense articles; to the Committee on Foreign Relations.

ARMS EXPORT REFORM ACT

● Mr. BIDEN. Mr. President, only under the rarest circumstances could we expect a decision of the Supreme Court of the United States to have a direct and significant bearing on the conduct of the foreign policy of the United States. But in 1983 precisely that occurred when the Court rendered its famous *Chadha* decision, which held unconstitutional the legislative veto procedure which had been written into numerous laws of a wide variety.

THE PRE-CHADHA SYSTEM

One such statute—a most significant one—was the Arms Export Control Act. Under the complex provisions of that law, a procedure had been established enabling Congress to receive advance notification of significant U.S. arms transfers to foreign nations and to disapprove such transfers by the mechanism of a concurrent resolution. The act stipulated three thresholds beyond which a sale is subject to congressional disapproval: $14 million for major defense equipment—meaning sophisticated weapons or hardware—$50 million for any defense article or service; and $200 million for design and construction projects.

Disapproval by concurrent resolution meant that if a majority in both Chambers opposed a sale, the sale would not transpire. Conversely, a President would prevail in executing a proposed arms sale if he could win a majority in either Chamber—enough, that is, to prevent the passage of a concurrent resolution.

As it happened, no proposed arms transfer was ever blocked by Congress using that mechanism. But the very existence of the procedure did ensure that any administration would give careful consideration to the support or opposition a contemplated sale might encounter in Congress. On several occasions, the reality of congressional authority in the arms sales area has caused proposals to be modified or abandoned, the latter having occurred most recently in the case of a contemplated sale to Jordan.

THE CURRENT SYSTEM

This year, pursuant to an initiative by Senator CRANSTON, Congress took the necessary legislative steps to adapt the Arms Export Control Act to the ruling in Chadha. The Cranston bill revised the act to provide that Congress could disapprove a sale by means of joint resolution—a procedure obviously constitutional, even in view of the Chadha decision, because a joint resolution represents the fresh enactment of a full new law. The continued process of congressional notification, combined with the expedited legislative procedure stipulated by the Arms Export Control Act, meant that Congress would still be certain of the opportunity to review all proposed sales and, in the event of a controversial sale, to express its will promptly.

Unfortunately, events of recent weeks surrounding a major arms sale to Saudi Arabia have shown the weakness of the post-Chadha system. Originally envisaged as a multibillion-dollar deal, the sale was whittled down, in anticipation of congressional opposition, to a level of $354 million, and then reduced again to a level of $265 million in deference to congressional concern about the transfer of Stinger missiles. The final outcome was nonetheless most extraordinary and disturbing: a massive, intensely controversial arms sale to Saudi Arabia survived on the basis of support from one-sixth of the House of Representatives and one-third plus one in the Senate.

A BETTER SYSTEM

Mr. President, I believe strongly that the major foreign policy business of the United States must be conducted on the basis of far stronger support from the Congress. If a President's tools of leadership and persuasion cannot prevail—to the extent of winning majority congressional support on a fundamental issue—there is sound reason for reconsideration of the policy. This principle applies to aid to the Nicaraguan Contras, and it applies to arms sales to Saudi Arabia.

It is to prevent any recurrence of the sharp deviation from that principle, such as we have just experienced in the case of the Saudi sale, that I am today introducing the Arms Export Reform Act. We have on occasion seen an unholy alliance between U.S. arms manufacturers anxious to increase sales and administrations anxious to appease regional client-states. This legislation would restore the checks and balances needed to prevent the casual distribution abroad of frontline U.S. weapons. Ideally, it will induce in the executive branch sufficient foresight and prudent consideration of arms sales that Congress will seldom move to exercise the powers of prevention that the legislation provides.

Cosponsors of this legislation are Senators BOSCHWITZ and PELL; while in the House companion legislation is being introduced by Congressman MEL LEVINE, along with Congressmen CHRIS SMITH, LARRY SMITH, BRUCE MORRISON, and CONNIE MACK. I wish to note with special appreciation, however, the contribution of Senator PELL, the Foreign Relations Committee's distinguished ranking member, who has worked very ably with me in shaping the content of this bill.

The legislation would build on the Arms Export Control Act, amending the act in two significant ways, both fully harmonious with—and indeed designed to uphold—the act's original spirit and intent.

(1) SALES SUBJECT TO DISAPPROVAL: A NEW CRITERION

The first change concerns the definition of sales which shall be subject to congressional consideration. The Arms Export Control Act, in both its original and current form, has defined such sales according to the monetary thresholds I cited earlier: $14 million for major defense equipment; $50 million for any defense article or service; and $200 million for design and construction projects. Any contemplated sale above these levels has required formal notification to Congress, which may then act to disapprove.

Under the revised system embodied in our bill, Congress would continue to receive notification of all sales above these thresholds and would thereby continue to monitor the overall flow of U.S. arms transfers. What would change, however, is the criterion governing which U.S. sales shall be subject to congressional action. A decade of experience with the Arms Export Control Act has demonstrated that congressional concern about a proposed arms deal has never been triggered by the dollar amount per se. Rather, congressional challenges of sales have occurred because of the sensitivity—the quality and technological sophistication—of the weapons to be transferred. In short, we have been interested in jets, not hangar and runway construction; in AWACS, not routine radar equipment; in tanks, not trucks and jeeps; in warships, not harbor dredging and port facilities.

Accordingly, the revised law would, for all sales of nonsensitive weapons and equipment, completely eliminate the congressional review process and all attendant delay, leaving in place only the notification requirement for sales above the three thresholds. But, meanwhile, the new law would require that all sales of sensitive weaponry, in any dollar amount, be subject to congressional review and action.

Weapons and equipment defined as sensitive would be generically identified in law as:

Those items of types and classes currently used or to be used by the Armed Forces of the United States (other than the Army National Guard or the Air National Guard or a Reserve component of an Armed Force of the United States), or produced solely for export, as follows:

turbine-powered military aircraft; rockets; missiles; anti-aircraft artillery; and associat-

ed control, target acquisition, and electronic warfare equipment and software;

helicopters designed or equipped for combat operations;

main battle tanks and nuclear-capable artillery; and

submarines, aircraft carriers, battleships, cruisers, destroyers, frigates, and auxiliary warships.

The effect of this change would be to focus the review system where it should be focused, while allowing the executive branch to proceed routinely on matters that experience has shown to be routine.

(2) THE MECHANISM OF CONGRESSIONAL APPROVAL/DISAPPROVAL

The second change concerns the mechanism by which Congress may reflect its will on a sale subject to congressional action. Current law distinguishes two categories of nations. The first consists of NATO member countries, ANZUS member countries, and Japan. Because the strong presumption in the case of sales to any of these nations is that Congress will be favorably disposed, the Arms Export Control Act has provided an abbreviated period of congressional consideration. Sales to all other nations fall into the second category and are subject to regular review and consideration.

The legislation we are introducing today would provide for absolutely no change in the favored standing of sales to nations in the first category. It would, moreover, add to that category any "country which is a party to the Camp David accords or an agreement based on such accords," which at this point means Israel and Egypt. As expanded, this category could be described as consisting of nations with which we are formally allied and those that are traditionally the major recipients of American military aid. Because a very clear consensus underlies U.S. arms transfers to each and all of these nations, the law would continue to reflect a presumption in favor of such transfers, which would remain subject only to a joint resolution of disapproval.

What would change, under this new legislation, is the procedure governing the sale of highly sophisticated weaponry to all other nations. For them, a new procedure would be established, requiring affirmative congressional action to approve any major sale. This would mean that there would not be—as there should not be—a presumption in favor of any such transfer. Instead, the proposed transfer of frontline U.S. arms would have to obtain a majority of support in both Houses—rather than a mere one-third plus one in either House, as in the current system. There would, however, be a stipulation allowing the President to bypass the need for such congressional approval if he certified, and detailed the existence of, an emergency requiring a sale in the vital national security interests of the United States.

COMPARING THE ORIGINAL, CURRENT, AND PROPOSED SYSTEMS

In response to any charge that such legislation would bring Congress into the role of "micro-managing" U.S. arms sales policy, let me emphasize that in fact the reverse is true. This legislation would ease present requirements on the legislative and executive branches while focusing energy and attention on those sales that truly should be decided upon jointly—sales involving sensitive, frontline weapons and equipment.

As to congressional notification, proposed sales above the threshold levels would be subject to the smoothly operating information procedures now in effect, allowing Congress to stay abreast of the flow of U.S. arms transfers.

As to the treatment of noncontroversial sales, which Congress has heretofore dealt with through inaction, the proposed system would offer substantial improvement. In the case of nonsensitive items, the new law would free the sale to proceed automatically, with neither congressional review nor delay, regardless of the dollar amount. Similarly, in the case of sensitive equipment going to allies and key arms aid recipients, no congressional action would be required, since the current mechanism—a joint resolution of disapproval—would remain in effect. Only in the case of sensitive equipment going to other nations would the procedure become somewhat more demanding—but only slightly so, since the executive branch and Congress could easily package noncontroversial sales for routine congressional approval, either by resolution or by ad hoc amendment to regular legislation. A provision for expedited procedure would guarantee prompt congressional consideration.

Finally, as to the treatment of controversial sales, the proposed system would, as always, provide for a vote, but with an approval standard much closer to the original system—and to what is reasonable—than the post-Chadha system under which we are now operating. Whereas the current system allows the President to implement his proposal with the bare support of merely one-third plus one in either House, the original system required that he obtain a full majority of support in at least one House. The proposed system, in only slight contrast to the original pre-Chadha system, would require that the President gain majority support in both Houses.

Let me summarize what I believe to be the virtues of this new system:

First, this legislation completely removes all nonsensitive sales from the system of congressional control.

Second, sales of sensitive weaponry to countries in the "consensus" category will require, as now, no affirmative action.

Third, those sales which will now require affirmative action, but which are noncontroversial, can be easily packaged and approved as routinely as noncontroversial political appointments or military promotion lists.

Finally, a controversial sale of sensitive equipment will, as always, result in a debate and a vote—but one requiring that the President obtain not a mere one-third-plus-one in one House, but a majority in both Houses.

The cosponsors of this legislation believe that this standard represents precisely the degree of congressional support that should underlie any major foreign policy decision, and that this system represents precisely the way Congress and the executive branch should interact in shaping American foreign policy.

Mr. President, trusting that many of my colleagues will agree, I now—on behalf of Senators BOSCHWITZ and PELL, and in conjunction with Congressman MEL LEVINE and other House cosponsors—introduce "The Arms Export Reform Act of 1986" in anticipation that the Foreign Relations Committee will hold hearings on this legislation in the near future. If enacted, this legislation would repair the damage done to the original Arms Export Control Act by the Chadha decision; it would focus the arms transfer review process where it belongs—on our most sensitive, sophisticated weaponry; and it would establish an approval standard which the Constitution implies and which time has shown to be wise: affirmative congressional concurrence in major foreign policy decisions.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2834

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Arms Export Reform Act of 1986".

SEC. 2. (a) Notwithstanding any other provision of law, in the case of—

(1) any letter of offer to sell under the Arms Export Control Act,

(2) any application by a person (other than with regard to a sale under section 21 or 22 of the Arms Export Control Act) for a license for the export of, or

(3) any agreement involving the lease under chapter 6 of the Arms Export Control Act, or the loan under chapter 2 of part II of the Foreign Assistance Act of 1961, to any foreign country or international organization for a period of one year or longer of, any item described in subsection (d), before such letter of offer or license is issued or before such agreement is entered into or renewed, the President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a numbered certification containing—

(A) in the case of a letter of offer to sell, the information described in section 36(b)(1) of the Arms Export Control Act and section 36(b)(2) of such Act, as redesignated by section 3(a)(2) of this Act,

(B) in the case of a license for export (other than with regard to a sale under section 21 and 22 of such Act), the information described in section 36(c) of such Act, as amended by section 3(b)(1) of this Act, and

(C) in the case of such an agreement, the information described in section 62(a) of such Act unless section 62(b) of such Act applies,

without regard to the dollar amount of such sale, export, lease, or loan.

(b) Notwithstanding any other provision of law and except as provided in subsection (e)—

(1) no letter of offer may be issued under the Arms Export Control Act with respect to a proposed sale,

(2) no license may be issued under such Act with respect to a proposed export, and

(3) no lease may be made under chapter 6 of such Act and no loan may be made under chapter 2 of part II of the Foreign Assistance Act of 1961,

of any item described in subsection (d) to a country or international organization (other than a country or international organization described in subsection (c)) unless the Congress enacts a joint resolution or other provision of law authorizing such sale, export, lease, or loan, as the case may be.

(c) Except as provided in subsection (e), no such letter of offer or license may be issued and no such lease or loan may be made with respect to a proposed sale, export, lease, or loan, as the case may be, of any item described in subsection (d) to the North Atlantic Treaty Organization (NATO), any member country of such Organization, Japan, Australia, New Zealand, or any country which is a party to the Camp David Accords or an agreement based on such Accords, if the Congress within fifteen calendar days after receiving the appropriate certification enacts a joint resolution prohibiting the proposed sale, export, lease, or loan, as the case may be.

(d) The items referred to in subsections (b) and (c) are those items of types and classes currently used or to be used by the Armed Forces of the United States (other than the Army National Guard or the Air National Guard or a Reserve component of an Armed Force of the United States) or produced solely for export, as follows:

(1) turbine-powered military aircraft; rockets; missiles; anti-aircraft artillery, and associated control, target acquisition, and electronic warfare equipment and software;

(2) helicopters designed or equipped for combat operations;

(3) main battle tanks and nuclear-capable artillery; and

(4) submarines, aircraft carriers, battleships, cruisers, frigates, destroyers, and auxiliary warships.

(e) The requirements of subsections (b) and (c) shall not apply if the President states in his certification that an emergency exists which requires the proposed sale, export, lease, or loan, as the case may be, in the vital national security interests of the United States. If the President so states, he shall set forth in the certification a detailed justification for his determination, including description of the emergency circumstances which necessitate the immediate issuance of the letter of offer or license for export or lease or loan and a discussion of the vital national security interests involved.

(f)(1) Except as otherwise provided in this paragraph and paragraph (3), any joint resolution under subsection (b) or (c) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976. For purposes of consideration of a joint resolution under subsection (c)(1), the motion to discharge provided for in section 601(b)(3)(A) of such Act may be made at the end of 5 calendar days after the resolution is introduced. If a joint resolution under subsection (b) deals with more than one certification, the references in section 601(b)(3)(A) of such Act to a resolution with respect to the same certification shall be deemed to be a reference to a joint resolution which relates to all of those certifications.

(2) For the purpose of expediting the consideration and adoption of joint resolutions under subsections (b) and (c), a motion to proceed in the House of Representatives to the consideration of any such resolution after it has been reported by the committee on Foreign Affairs shall be highly privileged.

(3) If the text of a joint resolution under subsection (b) contains more than one section, amendments which would strike out one of those sections shall be in order, but amendments which would add an additional section shall not be in order.

(4)(A) The joint resolution required by subsection (b) is a joint resolution the text of which consists only of one or more sections, each of which reads as follows: "The proposed —— to ———— described in the certification submitted pursuant to section 2(a) of the Arms Export Reform Act of 1986 which was received by the Congress on (Transmittal number ——) is authorized.", with the appropriate activity, whether sale, export, lease, or loan, and the appropriate country or international organization, date, and transmittal number inserted.

(B) The joint resolution required by subsection (c) is a joint resolution the text of which consists of only one section, which reads as follows: "That the proposed to —— described in the certification submitted pursuant to section 2(a) of the Arms Export Reform Act of 1986 which was received by the Congress on (Transmittal number ——) is not authorized.", with the appropriate activity, whether sale, export, lease, or loan, and the appropriate country or international organization, date, and transmittal number inserted.

SEC. 3. (a) Section 36(b) of the Arms Export Control Act is amended—

(1) by striking out the last two sentences of paragraph (1) and by striking out paragraphs (2) and (3); and

(2) by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

(b) Section 36(c) of such Act is amended—

(1) by striking out "(c)(1)" and inserting in lieu thereof "(c)"; and

(2) by striking out paragraphs (2) and (3).

(c)(1) Section 62(a) of such Act is amended by striking out "Not less than 30 days before" and inserting in lieu thereof "Before".

(2) Section 63 of such Act is repealed.

(3) Section 64 of such Act is redesignated as section 63.

SEC. 4. The provisions of this Act shall apply with respect to any letter of offer or license for export issued, or any lease or loan made, after the date of enactment of this Act.●

ARMS EXPORT REFORM ACT

Mr. PELL. Mr. President, the Senator from Delaware [Mr. BIDEN] and I, together with the Senator from Minnesota [Mr. BOSCHWITZ], are introducing today major legislation to reform the procedures governing the export of American arms. Identical legislation is being introduced in the House. We hope to gather support this year and to press forward vigorously toward passage next year.

The Arms Export Control Act was passed originally in 1968 to establish a framework of objectives and controls to govern arms transfers. The act has been amended a number of times over the years to provide for better congressional controls, including veto of transfers by concurrent resolution, when Congress concluded particular sales were against U.S. interests. In 1983, however, the Chadha decision held vetoes by concurrent resolution unconstitutional. Earlier this year, the Congress amended the act to provide for disapproval by joint resolution, a step compatible with the Chadha ruling, since a joint resolution has independent standing as law. However, the weakness of the new system was demonstrated this spring as a massive, intensively controversial missile sale to Saudi Arabia survived on the basis of support from a mere one-sixth of the House and one-third plus one in the Senate.

As it happens, no arms transfer has ever been blocked by Congress through the use of the disapproval mechanism. Nonetheless, the existence of the procedure and the prospect that the Congress could block an unwise transfer did ensure that the executive branch would give careful consideration to the view of Congress. On several occasions, most recently with regard to a proposed sale to Jordan, the reality of congressional authority caused sales to be abandoned. In other instances, modification was achieved. Unfortunately, the Saudi sale experience demonstrates most clearly that congressional ability to stop even the least justifiable of sales when such sales come to a vote has dwindled to the point of insignificance. We believe that situation to be intolerable.

Accordingly, we have authored the Arms Export Reform Act of 1986 to establish procedures which are a clearly constitutional means of dealing with the Chadha-related problem and to solve other concerns which have emerged over the years of experience with the act. In brief, our bill would:

Change the standard upon which Congress passes judgment on proposed arms transfers from one based on dollar value one based on the sensitivity or sophistication of equipment. This would allow Congress to focus on equipment that is of significance be-

cause of what it is, not how much it costs.

Keep the present reporting requirements for proposed sales, but abolish the provisions for the disapproval of such sales on the basis of their dollar value, as well as the delay period of 30 days. Thus, the executive branch would be free to agree to transfers and deliver on those promises in cases involving nonsensitive equipment.

Require, for most countries, that Congress give affirmative approval for a sensitive transfer, in lieu of the present system under which Congress must disapprove a Presidential proposal. Thus, transfers would be made if a simple majority in Congress agreed, instead of the present system in which two-thirds are needed to disapprove. Prospects for joint executive branch-congressional decisions would be improved, and we would move away from the present system, which so often puts the Congress and executive branch at loggerheads.

Retain the favored status of NATO, ANZUS, and Japan, and give comparable status to Egypt, Israel, and any future joiners of the Camp David peace process, and here I am thinking particularly of the possibility of Jordan. Sales to those countries could only be stopped if Congress disapproved under expedited procedures within 15 days.

Finally, establish comparable procedures governing FMS sales, commercial sales and leases—thus correcting differences which have complicated matters to no advantage.

Mr. President, the list of weapons which would require congressional approval before being provided to most nations is as follows:

First, turbine-powered military aircraft; rockets; missiles, antiaircraft artillery and associated control, target acquisition, and electronic warfare equipment and software;

Second, helicopters designed or equipped for combat operations;

Third, main battle tanks and nuclear-capable artillery; and

Fourth, submarines, aircraft carriers, battleships, cruisers, frigates, destroyers, and auxiliary warships.

This equipment is now in use by our own Army, Navy, Air Force, and Marines, as well as the forces of our closest friends and allies. That equipment could constitute the edge we and our friends and allies may need in confrontation or in conflict. We should never allow it to be sold to nations which might use it to threaten or attack us and our friends and allies.

Arms sales should not be allowed to be a matter of dollars only. They should also be a matter of sense—the sense of the Congress and executive branch together as to what sales and what restraint are right. I am deeply convinced that the changes this bill would bring about would promote the cooperation—in lieu of confrontation—between Congress and the executive branch which is sorely needed in this area.

Mr. President, I am further convinced that the approach toward arms exports which this bill would bring about would set an excellent example for other arms suppliers. I hope that it could help set the stage for the resumption of talks among the suppliers leading to true conventional arms restraint.

The suppliers must get serious about multilateral arms restraint if we are to avoid a no-holds-barred competition that will only undermine stability in regions throughout the world, increase risks to our friends and allies, and promote conflict as a substitute for diplomacy.

In addition, nations in areas of potential conflict should give serious attention to the development of regional arms control arrangements, which the suppliers should pledge themselves to respect. Given the basic human needs which are going unfulfilled throughout so much of the developing world, it is simply irresponsible for the leaders of the poor nations to do otherwise than to constrain their military acquisition. Regional restraint is an excellent and virtually untried way to lessen requirements for arms. True restraint will be possible when leaders understand that the purchase price of arms is only part of their cost.

It amazes me that most of the world's nations appreciate the threat of nuclear proliferation and have been willing to join in a common effort in the 1968 Non-Proliferation Treaty, but that most of these same nations see little urgency associated with conventional arms restraint. We have not seen nuclear weapons used in war for over 40 years, but we see conventional weapons used with devastating effect every day.

Mr. President, true restraint by suppliers and recipients will take years to achieve, if it can be accomplished at all. I have no illusions about that, nor should any of us. However, the concepts incorporated into this bill will do much to help the United States develop a rational arms export policy which reflects both a clear willingness to help our friends and allies, and restraint in the transfers of our most sensitive armaments. With such policies for ourselves, we would be in an excellent position to play a leadership role in forging agreements and understandings with other nations—both sellers and buyers of arms.

All told, this act would move in the direction of trying to restrain the spread of conventional weapons around the world and trying to put a blanket on the instinct of so many developing nations to try to get a weapons system because a neighbor has a similar one. One neighbor has a destroyer and the next a cruiser, and they go back and forth.

I hope very much that this proposal will meet with the approval of our colleagues.

By Mr. BINGAMAN (for himself, Mr. DECONCINI, Mr. SIMON, Mr. CRANSTON, Mr. GORE, Mr. SARBANES, Mr. MOYNIHAN, Mr. MATSUNAGA, and Mr. METZENBAUM):

S. 2835. A bill to establish literacy programs for individuals of limited English proficiency; to the Committee on Labor and Human Resources.

ENGLISH PROFICIENCY ACT

Mr. BINGAMAN. Mr. President, I rise to introduce the English Proficiency Act, legislation intended to raise the literacy skills of persons whose native language is other than English. This legislation is the companion to the House version, H.R. 5042, introduced by Representative MARTINEZ and cosponsored by 59 of his colleagues at this point. I am pleased to complement the efforts of this distinguished group. I am also pleased to include Senators DECONCINI, SIMON, CRANSTON, GORE, SARBANES, MOYNIHAN, METZENBAUM, and MATSUNAGA as original cosponsors of the Senate legislation.

The statistics show the ever-growing number of Americans who are functionally illiterate—who cannot use the English language for practical purposes. They cannot write their own name, read a road sign, or read the newspaper—skills that depend on being able to read and write English. Current estimates by the Department of Education find that 25 million American adults are considered functionally illiterate. They lack the reading, writing, comprehension, and simple math skills necessary to function beyond the fourth grade. Another equally large number of Americans are considered only marginally literate—their basic skills ranging between the fifth through eighth grade levels.

EDUCATIONAL IMPROVEMENTS NEEDED

The Carnegie Forum on Education and the Economy in May released its landmark report, "A Nation Prepared: Teachers for the 21st Century." It warned that unless our country rebuilds its educational system to meet the dramatic changes in our economy, our children will not be prepared for the 21st century. The report said:

> The country is in a trap of our own making. Not all of our children actually master the basic skills. America has a serious functional literacy problem that must be corrected.

Last week, the Senate Democratic Working Group on Economic Competitiveness, which it has been my pleasure to chair, released its report, "Economic Competitiveness Promoting America's Living Standard." Underpin-

ing its recommendations is the critical necessity of a literate work force to secure this country's economic security.

ILLITERACY PROBLEM

A recent Census Bureau survey, conducted jointly with the Department of Education, found that while 13 percent of all U.S. adults are illiterate, the rate for adults whose native language is not English is 48 percent. It found that the fastest growing minority group, the Hispanic community, has a 56-percent functional illiteracy rate. What places this illiteracy rate so high is the fact that the native language of this community is Spanish. Therefore, before the high level of functional illiteracy among Hispanics can be dramatically lowered, the first goal must be to help many of them to become proficient in English. To merely arbitrate literacy without first recognizing the cultural and linguistic background of an individual undercuts the end which we seek to achieve—an educated and contributing citizenry.

ENGLISH PROFICIENCY PROBLEM

There is an important distinction between a "limited English proficient" person and one who is illiterate, yet one may be both. When I speak of limited English proficient I speak of a person who has a limited ability to speak, read, write, or understand English, whose native language is other than English. Illiteracy, as stated before, is the lack of essential knowledge and skills to enable an individual to function effectively in his or her environment.

This distinction is important. The recent report by La Raza, entitled "Illiteracy in the Hispanic Community," found that the lack of appropriate services for limited English proficient children contributes to English illiteracy among Hispanics. Because these children do not receive special language services, they fall farther and farther behind in core subjects at an early age. They simply do not understand the language in which they are being taught.

This legislation does not solve the ongoing bilingual education debate and is not intended to resolve which teaching method is better. Instead, my intent is to bring to the attention of my colleagues the particular needs of certain Americans who need to be given an even chance to read and write English. We know that the rates for illiteracy are especially high for Hispanics and other minorities, notably American Indians. A significant factor is the disproportionately high percentage of these youth leaving high school without a diploma. Department of Commerce figures released in 1985 show that the dropout rate for Hispanics is the highest of any major U.S. subpopulation—45 to 50 percent, and 70 percent in some large urban areas. Equally disturbing is an article in the Albuquerque Journal dated August 23, 1986, stating that the 1985-86 high school dropout rate in New Mexico was the highest among Indian students—12.3 percent, up from 10.2 percent in the previous school year. This means that one of every eight Indian students did not complete high school.

The need for a literate America becomes more critical because we cannot afford as a nation for large segments of our population to be unable to read and write. It is certainly my intent that this legislation include those minority populations which meet the definition of limited English proficient—this includes the Hispanic, the American Indian, and Native Alaskans, and certainly the Asian-Americans, Pacific Islanders, and Native Hawaiians. The demographic trends of our Nation show that by the year 2000, one out of every three Americans will be a member of a minority group. If we fail to address the special educational needs of these groups we will have short changed our future.

ENGLISH PROFICIENCY ACT

Mr. President, I strongly believe that the English Proficiency Act attempts to combat illiteracy and to focus on this underserved population many of whom are limited English proficient. This measure establishes within the Office of Adult Education of the Department of Education a grant program for community-based organizations, local education agencies, tribally controlled schools, institutions of higher learning, public libraries, and prisons. The grants will be made for not more than 3 years and reviewed annually.

The act defines an individual who is of limited English proficiency as an adult or out-of-school youth who has a limited ability to speak, read, write or understand English, and whose native language is a language other than English; or who live in a family or community environment where a language other than English is the dominant tongue.

The act also establishes a program to develop innovative approaches to literacy education for individuals of limited English proficiency. Equally important is the creation of a nationwide clearinghouse on literacy education to collect and disseminate information about effective approaches or methods, with a special emphasis on coordination with other manpower training and education programs.

The bill authorizes $10 million to be appropriated for each of fiscal years 1987, 1988, and 1989. Given that some experts estimate $20 billion annually in direct expenditures for such costs as prisons and welfare, and $100 billion in indirect costs in lost productivity and gross national product, these moneys would be important investments with immediate paybacks for all Americans.

I want to note, Mr. President, that several important organizations are supporting this legislation. I insert for the record at the conclusion of my remarks a letter signed by 34 organizations supporting this bill. Also for the record I insert two letters of support from the National Indian Education Association and the Native American Science Education Association.

I urge my colleagues to support this legislation. It is a modest, yet necessary first step to combat illiteracy among an important group of American citizens.

I ask unanimous consent that a copy of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2835

Be it enacted by the Senate and House of Representatives of the United States of Ameriaca in Congress assembled.

SHORT TITLE

SECTION 1. This Act may be referred to as the "English Proficiency Act".

FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) proficiency in English, the common language of the United States, is essential in Amerian life and a prerequisite to naturalization and the full exercise of civic rights and responsibilities:

(2) limited English literacy is a barrier to participation in the political and economic mainstream of the Nation, diminishing economic competitiveness and restricting citizens participation in democratic processes;

(3) parents who possess limited English literacy skills are unable to be full partners in their children's education resulting in low levels of educational attainment and high dropout rates among those children;

(4) many endeavors which serve the technological, economic and national security interests of the United States require advanced skills among workers in the private and public sector, and a solid foundation of basic skills including proficiency in English is essential in obtaining these complex skills;

(5) it is in the national interest to assist individuals of limited English proficiency to acquire the English language skills to enable them to become full and productive members of society;

(6) significant numbers of adults and out-of-school youth in the United States lack oral English proficiency and functional English literacy skills;

(7) individuals of limited English proficiency include both citizens and non-citizens;

(8) many individuals of limited English proficiency lack English literacy skills because they have not been provided equal educational opportunities by State and local educational agencies;

(9) research and surveys demonstrate that adults of limited English proficiency have a strong desire to achieve full competence in the English language;

(10) existing resources are not sufficient to meet the special needs of individuals of limited English proficiency; and

(11) community-based nonprofit organizations are often the most appropriate entities in providing successful English literacy programs focused on individuals of limited English proficiency.

(b) PURPOSE.—It is the purpose of this Act, in order to promote opportunities for all individuals to achieve literacy in English, to—

(1) encourage the establishment and operation, where appropriate, of English langauge and literacy programs specifically designed and targeted to meet the needs of limited-English proficient persons;

(2) to establish a national clearinghouse to compile information on literacy curriculum and resources for limited-English proficient youth and adults and thereby assist local grantees implementing programs funded under this Act; and

(3) to provide financial assistance to programs in communities which are designed to meet the language and literacy needs of individuals of limited-English proficiency to achieve full competence in English.

DEFINITIONS

SEC. 3. For the purposes of this Act:

(1) The term "individual of limited English proficiency" means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English langauge and—

(A) whose native language is a language other than English; or

(B) who live in a family or community environment where a language other than English is the dominant language.

(2) The term "adult" means an individual who has attained 16 years of age.

(3) The term "out-of-school youth" means an individual who is under sixteen years and beyond the age of compulsory school attendance under state law who has not completed high school or the equivalent.

(4) The term "English literacy program" means a protram of instruction designed to help limited English proficient adults, out-of-school youths, or both achieve full competence in the English language.

(5) The term "Secretary" means the Secretary of Education.

(6) The term "community-based organization" means a private nonprofit organization which is representative of a community or significant segments of a community and which provides education, vocational education, job training, or internship services and programs and includes neighborhood groups and organizations, community action agencies, community development corporations, union-related organizations, employer-related organizations, tribal governments, and organizations serving Native Alaskans and Indians.

FINANCIAL ASSISTANCE FOR ENGLISH LITERACY PROGRAMS

SEC. 4. (a) ESTABLISHMENT.—Subject to the availability of appropriations, the Secretary shall establish within the Office of Adult Education a program of grants for the establishment, operation, and improvement of English literacy programs for individuals of limited English proficiency. Such grants may provide for support services including child care and transportation costs for program participants.

(b) GRANT RECIPIENTS.—

(1) A grant under this section may be made to community-based organizations, local educational agencies, tribally-controlled schools, institutions of higher education (including community colleges), public libraries, and prisons.

(2) Eligible grant recipients under paragraph (1) may be located in any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(c) APPLICATION.—

(1) Any eligible institution under subsection (b) may submit an application for a grant authorized under subsection (a). Such application shall be made to the Secretary at such time, and in such manner, as the Secretary considers appropriate.

(2) Applications for grants authorized under subsection (a) of this section shall contain information regarding—

(A) the number of limited-English proficient adults and out-of-school youth in the area served by applicants who need or could benefit from programs assisted under this Act;

(B) the activities which would be undertaken under the grant and the manner in which such activities will promote English literacy and enable individuals in the program to participate fully in national life;

(C) a statement of the applicant's ability to serve individual adults and out-of-school youth of limited English proficiency, including the qualifications and training of personnel who will participate in the proposed project;

(D) the resources necessary to develop and operate the proposed program and the resources to be provided by the applicant; and

(E) the specific goals of the proposed program and how achievement of these goals will be measured.

(d) AVAILABILITY.—Grants under this section shall be available for not more than three years. The Secretary may terminate a grant only if the Secretary determines that—

(1) the applicant's program has not made substantial progress in achieving the specific educational goals set out in the application; or

(2) there is not longer a need for the applicant's program.

(e) SET-ASIDE FOR COMMUNITY-BASED ORGANIZATIONS.—Not less than 50 percent of funds available under this section shall be used to make grants to community-based organizations with the demonstrated capability to administer English proficiency programs.

(f) REPORT.—A grant recipient under this section shall submit to the Secretary a report on the program's progress and activities for each fiscal year.

DEMONSTRATION PROGRAMS AND EVALUATION

SEC. 5. (a) PROGRAM AUTHORITY.—Subject to the appropriations under this section, the Secretary, through the Office of Adult Education, shall directly, and through grants and contracts with public and private nonprofit agencies, institutions, and organizations, carry out a program—

(1) to develop innovative approaches and methods of literacy education for individuals of limited English proficiency utilizing new instructional methods and technologies;

(2) to establish a nationwide clearinghouse on literacy education for individuals of limited English proficiency to collect and disseminate information concerning effective approaches or methods, including coordination with manpower training and other education programs.

(b) EVALUATION AND AUDIT.—The Secretary shall directly, and through grants and contracts with public and private agencies, institutions, and organizations, evaluate the effectiveness of programs conducted under this Act. Programs funded under this Act shall be audited annually.

AUTHORITY OF SECRETARY

SEC. 6. In the administration of programs under this Act, the Secretary shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for the purposes of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. (a) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of this Act $10,000,000 for each of the fiscal years 1987, 1988, and 1989.

(b) AVAILABILITY.—Funds appropriated under subsection (a) shall remain available until expended.

(c) LIMITATION.—Not more than 10 percent of funds available under this Act shall be used to carry out the purposes of section 5.

Mr. BINGAMAN. Madam President, I also ask unanimous consent that three other times be included in the RECORD at this point: No. 1, a letter of support from some 34 organizations which have indicated their endorsement of this legislation; No. 2, a letter from the National Indian Education Association in support of this legislation; and, No. 3, a letter from the Native American Science Education Association.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SEPTEMBER 15, 1986.

DEAR SENATOR: We the undersigned urge you to support the English Proficiency Act which will be introduced on September 18. The English Proficiency Act would address the serious problem of illiteracy among adults of limited-English proficiency. Full proficiency in English, spoken and written, is a fundamental necessity for all citizens so that they can take advantage of the opportunities our nation offers and be full contributing members of our society. The alarming level of illiteracy in our country has received considerable attention recently, and some of you have already proposed some solutions.

Many people, however, may not be aware of the extent of the problem among individuals of limited-English proficiency. The 1975 Adult Performance Level study found that fully 56 percent of the adult Hispanic-American population is functionally illiterate. A recently-released Census Bureau survey, initiated by the Department of Education, indicates that while 13 percent of all United States adults are illiterate, the rate for Spanish-speaking adults whose native language is not English is 54 percent, and the rate for non-Spanish-speaking adults whose native language is not English is 41 percent.

This problem is not being adequately addressed by present literacy programs. Because of the cost and specialized training required to serve limited-English proficient persons, many of the existing programs cannot serve this population. Many limited-English proficient persons must face long waiting lines for adult education classes that often charge for services. As a result, thousands of adults from non-English language backgrounds find themselves closed off from affordable opportunities to become literate in English. Given our technological

society and the critical importance of full participation in our democracy, we cannot afford to let this situation continue.

The English Proficiency Act of 1986 would achieve the following:

Provide grants for the operation of English literacy programs for adults and out-of-school youth of limited-English proficiency;

Make more effective use of existing resources within the Department of Education to reduce adult illiteracy;

Provide limited-English proficient persons the opportunity to learn to read, write and speak the language, and thereby become full participants in our society; and

Establish a clearinghouse to facilitate the gathering and dissemination of effective methods of teaching English to limited-English proficient adults.

We believe that bringing all Americans into the mainstream of society is in the best traditions of our country. We strongly urge you to join us in supporting this important legislation. To become a co-sponsor, please contact Faith Roessel or Andy Ford in Senator Jeff Bingaman's office at 224-5521 by September 16.

Sincerely,

American Civil Liberties Union.
American G.I. Forum of Washington, D.C.
American Jewish Committee.
Asian Pacific American Bar Association.
Asian of America.
Association for Community Based Education.
Center for Applied Linguistics.
Children's Defense Fund.
Chinese for Affirmative Action.
Congressional Hispanic Caucus.
Cuban American Committee.
Cuban National Planning Council.
International Reading Association.
Japanese American Citizens League.
League of United Latin American Citizens.
National Asian Pacific Democratic Council.
National Association of Latino Elected and Appointed Officials.
National Association for Bilingual Education.
National Center for Urban Ethnic Affairs.
National Coalition of Title I/Chapter I Parents.
National Community Education Association.
National Council of La Raza.
National Education Association.
National Hispanic Bar Association.
National Italian American Foundation.
National PTA.
National Puerto Rican Coalition.
National Puerto Rican Forum.
Mexican American Legal Defense and Educational Fund.
Mexican American Women's National Association.
Organization of Chinese Americans.
Organization of Pan American Women.
Teachers of English to Speakers of Other Languages.

NATIONAL INDIAN EDUCATION ASSOCIATION,
Minneapolis, MN, September 18, 1986.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BINGAMAN: The National Indian Education Association commends the introduction of "The English Proficiency Act" in the Senate.

Legislation to meet the special educational needs of limited English proficient persons in this nation is long overdue.

On some of the nearly 300 Indian reservations in the lower 48 States, English is the second language among over 90% of the native populations. Among these reservations there are over 150 separate and distinct Indian languages. Many of these American Indian people have long suffered hardship in coping with mainstream society because of the absence of adequate educational programs that can enable them to gain full proficiency in English without forcing them to abandon their own native cultures.

NIEA applauds your efforts to make equal educational opportunities a reality for all of our nation's citizens.

Sincerely,

DR. ANSELM G. DAVIS, Jr.,
President,
National Indian Education Association.

NATIVE AMERICAN SCIENCE EDUCATION ASSOCIATION
September 18, 1986.

Hon. JEFF BINGAMAN,
U.S. Senate,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BINGAMAN: The Native American Science Education Association is pleased to join more than thirty-five other organizations in support of your introduction of the English Proficiency Act. We strongly feel that the serious problem of illiteracy among adults particularly among Native Americans with limited English proficiency needs to be addressed. Full proficiency in English, spoken and written is a fundamental necessity for all citizens who wish to take advantage of all opportunities offered by our society. Limited English skills are and have been a continuing handicap for many Native Americans throughout the country.

We strongly support bilingual programs emphasizing skills for students in their native language. We join with you in the realization that no Indian child can become fully part of society without adequate English skills, both written and spoken. For this reason, we support the English Proficiency Act and strongly feel that special provision must be made to address the unique needs of Native Americans. The special circumstances of instruction in schools where the students are enrolled should also be taken into account. The provisions of the English Proficiency Act as proposed in H.R. 5024 would seem to offer the flexibility and structures to assist many Indian youth and adults to achieve the goals of functional literacy in English.

If we can be of any practical help in the discussions concerning the details of this legislation, please feel free to call on us. We are pleased to provide our support for your efforts to address this serious need for Native Americans and all citizens with limited English skills.

Sincerely,

GARY G. ALLEN,
Executive Director.

● Mr. SIMON. Mr. President, I am pleased to join my colleague from New Mexico [Mr. BINGAMAN] as a cosponsor of the English Proficiency Act of 1986.

Adult illiteracy is a problem which has an unquantifiable economic, social and personal cost. Modest literacy initiatives have been approved in this Congress as a recognition that we would be a more productive and participatory society if we could reach the estimated 23 million illiterate adults in the United States. The new literacy programs in public libraries, community service programs in the Higher Education Act reauthorization just out of conference, the VISTA Literacy Corps, and proposed mandatory remedial education within the summer youth programs currently under consideration in the Job Partnership and Training Act Technical Amendments Conference, reflect our concerns at the Federal level. The Federal Adult Basic Education Program, and State and local agency initiatives serve millions who want to learn and need to learn. The media has focused on the issue through "Capitol Cities/ABC and PBS-TV's Project Literacy U.S. [PLUS]" which includes media and other programs drawing attention to the problem and what can be done.

Close to 8 million native-English speakers between the ages of 20 and 39 are illiterate. For the age group over 40, the number of native-English speakers who are illiterate is close to 12 million. A significant number of adult illiterates, however, are not native-English speakers. While 13 percent of the adult population is estimated to be functionally illiterate, between 41 and 54 percent of American adults whose native language is not English are considered functionally illiterate. We cannot serve the English proficient adult who cannot read and write and believe we have addressed the problem of adult illiteracy. We must also recognize the limited-English speaking adult to encompass the spectrum of functional illiteracy in our population.

The English Proficiency Act of 1986 does just this. In addition to existing Federal illiteracy programs, the bill proposes three new initiatives for limited-English speaking adults. The bill would:

Provide grants for literacy programs for adults and out of school youths who are limited-English speakers.

Make more effective use of existing resources and programs at the U.S. Department of Education.

Establish a clearinghouse to facilitate the acquisition and dissemination of effective teaching methods for this target population.

We cannot afford illiteracy as a nation. Individuals as members of families, as workers and as citizens need to use the written word to be full members of society to the benefit of us all. I commend my colleague, Mr. BINGAMAN, for recognizing the needs of the limited-English speaking adult in the area of literacy and urge my colleagues to join in support for the English Proficiency Act of 1986.●

By Mr. BUMPERS (for himself, Mr. PRYOR, Mr. FORD, and Mr. DIXON):

S. 2836. A bill to amend the Agricultural Act of 1949 to modify the support price and marketing loan program for the 1986 crop of soybeans, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUPPORT PRICE AND MARKETING LOAN PROGRAM FOR SOYBEANS

Mr. BUMPERS. Mr. President, I rise this afternoon to introduce a bill on behalf of my colleague, Senator PRYOR, and myself, and which is supported by the American Soybean Association and a number of other farm groups.

This bill is designed to do what we asked the Secretary to do in a sense-of-the-Senate resolution attached to the debt ceiling bill roughly 1½ months ago.

What we asked in that and what we ask in this bill is that the loan rate on soybeans not be reduced from $5.02 to $4.77, and yet on roughly September 1, the Secretary ignored the sense-of-the-Senate resolution adopted by the Senate and reduced the loan rate from $5.02 to $4.77.

Mr. President, bear in mind that if there is a sequester under Gramm-Rudman the loan price on soybeans will further be reduced to $4.56 and I dare say without embellishing or overdramatrizing the plight of the American farmer there will be very few soybeans produced next year for $4.56 a bushel.

I want to also say that the loan rate established by the Secretary in September on September 1 applies to this year's crop which is just now in the process of being harvested in some areas most of which crop is yet to be harvested.

One of the most bizarre consequences of what can and may very well happen in the field of soybeans is this: The Secretary establishes a loan rate gf $4.77 and that is the price that an American farmer can get by placing his soybeans into the lgan program. That is $4.77 per bushel, and he agrees when he dges that to repay the Coemgdity Credit Cgrporation $4.77 when the tieOe comes 9 months later to redeee that loan.

And the kicker as thas: If Gramm-Rudman gges ifOto effect$ that is the sequester goes ifto effect, the doaf rate of soybeans wild drop to $4.56, and qet 9 months from now the farmer will be required to repay his loan at the full $4.77.

Mr. President, that would put the U.S. Government in the posture gOf actually making a profit in a most unfair and unintefded way off the most dastressed segmeft of the American ecgnomy; famely$ agriculture.

So what the bill Senator PRYGR and I are iftroducting tgday wild do, and incidentally, I want to alsg say that thas is being introduced on behalf of Senator FORD of Kentucky, would be to simply mandate a restoration rate of the $5.02 loan price which is just about the cost of producing soybeans all over this country&

Mr. President, I strongly urge my colleagues to read my formal remarks which I will momentarily ask to be inserted in the RECORD because it has information on how much we are producing, what world prodution is, how much we are exporting and what kind of competition we are facing in the world export markets.

The statement is as follows:

STATEMENT BY SENATOR DALE BUMPERS ON MAINTAINING PRICE SUPPORT LOAN RATE FOR SOYBEANS

Mr. President, today Senator Pryor and I are introducing a bill supported by the American Soybean Association and other farm groups that will require the Secretary of Agriculture to maintain the formula price support loan rate for soybeans at $5.02 per bushel, and to implement either a marketing loan or a so-called producer option payment. This bill would not be necessary if the Secretary had heeded my unanimously-adopted amendment to the Public Debt Limit Increase measure, H.J. Res. 668, which called for this identical program. However, the Secretary chose to ignore the Senate, and on August 29 announced a preliminary loan rate of $4.77 per bushel for 1986 soybeans, meaning that the effective loan rate will be $4.56 per bushel after accounting for the mandatory Gramm-Rudman deduction.

Although the announcement was not a complete surprise—because at every opportunity the Secretary of Agriculture has adopted the option under the 1985 farm act that least benefits the farmer—it did come as quite a blow to our soybean farmers. The final 1986 soybean loan rate will not be announced until around October 1, but no one expects the Secretary to change his mind. The bottom line is that without the enactment of soybean legislation mandating a $5.02 rate it will drop to $4.77 and even lower under Gramm-Rudman. My bill is intended to head off this disastrous turn of events for our soybean producers.

The soybean program our bill propoes would be a relatively simple one. The loan will be frozen at $5.02 per bushel for 1986 only. The Secretary will be mandated to adopt one of two marketing programs—either a marketing loan program or a producer option payment program. The marketing loan program would allow producers to redeem their CCC price support loans at the world market price. The producer option payment would be set at 20% of the loan value, about $1 per bushel, and would be paid to producers for either pledging to stay out of the loan or redeemig their loan and getting out of the loan program. Either program will produce significant savifgs in the avoidance of storage and interest costs on forefeited beans and would ensure the competitiveness of soybeans in all markets without adversely affecting net farm income.

And most importantly, the bill provides a return to the $5.02 loan protection level—an especially critical action considering that soybeans do not have a target price. Also, it should be noted that our bill requires the Secretary to consult with leaders within the cotton industry to help develop a plan to protect the cotton seed oil industry once a soybean marketing program is adopted.

Mr. President, let me set out a few facts which will fully justify this legislation. The announced decrease in the loan price down to $4.77 will cause a serious decline in net farm income for soybean producers without providing a significant boost to export sales. According to the USDA, the world forecast for oil seed production in 1986-87 is 196.5 million metric tons (MMT) with the non-U.S. share to rise 9 mmt from last year to a record production of 137.9 mmt.

World soybean production will decrease slightly, due to the drop in production in the U.S., from last year's record 96.12 mmt to this year's projection of 95.9 mmt. But foreign soybean production is forecast to reach a record 44.2 mmt, primarily due to production increases in Brazil, Paraguay, and China. Argentina is expected to increase production in 1986 by 16%, up to 312 million bushels, and Brazil is projected to increase production 24% up to 606 million bushels. As we all know, these two countries are major export competitors.

World soybean crush is forecast at 78.3 mmt, an increase of 2.3 mmt from last year, and an increased crush in the Southern Hemisphere will help displace U.S. oil and meal exports. Large global supplies of other oils, particularly palm oil, could push U.S. exports of soybean oil below last year's level of 570,00 metric tons, although many analysts project that such export sales will remain at or near last year's level. World soybean exports are predicted to show a slight gain, but the USDA projects that Brazil and Paraguay will capture any increase in sales.

This poor forecast was developed by the USDA even with the Department's internal understanding as to what measures will be taken to boost soybean, oil and meal export sales. Therefore, the implementation of a marketing loan program would aid the U.S. soybean industry in effectively competing with foreign bean, oil and meal export sales, where the conventional response of simply lowering the loan rate is projected to fail. And it would slow the importation of foreign palm and rapeseed oils into the U.S. that are displacing normal U.S. soybean sales.

The pressure on prices has also come from internal sources. Although U.S. production is projected to decline from last year's production of 57.1 mmt to 51.7 mmt, this level represents a significant increase from trade expectations. The USDA acreage report showing soybeans planted on 61.8 million acres in the U.S. also pressured weak soybean prices.

The pressure on soybean sales was further complicated with the notice published in the Federal Register on June 17, 1986, that the USDA intends to implement a temporary program to encourage the use of grain for fuel ethanol. Market analysts believe that this USDA program could displace up to $400 million in soybean, cottonseed, and sunflower seed sales. Under the proposed program, ethanol producers using corn as a feedstock will receive one bushel of CCC-owned grain or every 2.5 bushels purchased through September 30, 1986. This program is projected to produce 703,000 metric tons of corn gluten meal, 3.015 million metric tons of corn gluten feed, and 750 million pounds of corn oil as a by-product from the manufacturing process. The subsidized production of these by-products now places corn oil production competitively with production of other oils.

The USDA discounts any concern expressed by the soybean industry by claiming

many soybean producers also grow corn and, therefore, money is being switched from one pocket to another. This ignores a significant segment of soybean producers who do not grow corn. The resulting increase in corn by-product will unquestionably put further pressure on soybean prices. Unfortunately, soybean farmers who don't grow corn will not have a setoff nor will they have PIK certificates or deficiency payments to help cushion the price shock.

Finally I would like to close by alerting my colleagues to information I received concerning the newly announced $4.77 loan rate. According to sources within the soybean industry, a producer who enters the loan will have to absorb the 4.3% Gramm-Rudman loan reduction—effectively lowering the loan to $4.56 per bushel. The kicker is that the Administratign is going to force producers whg redeem to repay at the $4.77 level. This is absurd, it is going to ensure massive forfeitures unless the price for soybeans rallies spectacularly, and it vividly points to the insensitivity of the Administration to the problems of our soybean producers.

I urge my colleagues to consider the seriousfess of the situation and the urgent need to take action. The Senate unanimously adopted our amendment in August urging the Secretary to take the action this bill would compel him to take. Soybean producers are being whipsawed in the market in much the same way they were in 1985 during the farm bill debate. Producers are aware that Congress is contemplating changes and these producers need to know quickly what Congress will do so. February 1987 is too late; we must act now. I urge swift adoption of this legislation.

● Mr. PRYOR. Mr. President, in reaction to USDA's final soybean announcement concerning the 1986 loan rates, I am joining my colleague Senator BUMPERS in introducing legislation that if enacted would overide that announcement. This legislation strictly deals with soybeans and was unanimously supported in its intent in August in a sense of the Senate resolution. Our Secretary of Agriculture has now chosen to ignore that resolution and our wishes.

This legislation maintains the $5.02 per bushel loan rate for soybeans while at the same time mandating a marketing loan program for this crop. Only last Friday, Mr. President, USDA issued a final announcement that lowered the loan rate available to our producers from $5.02 per bushel to $4.77 per bushel. In my opinion, this decision shows no awareness for today's real economic situation in agriculture and complete rejection of available tools given to the Secretary by our Food and Security Act of 1985. The Secretary, with his broad discretionary authority, could have announced a program that adequately addressed soybean's needs. That announcement, in my opinion, should have stabilized the loan rate at $5.02 per bushel with the implementation of a marketing loan. An announcement such as this would have given better economic protection while at the same time allowing soybeans to be price competitive in international markets.

Mr. President, our legislation mandating a $5.02 per bushel loan rate with a marketing loan could mean survival for many soybean producers. Now is the time we must address the critical situation soybean producers are facing. We can't wait till next session. USDA's announcement will be the final nail in many farmers' coffins. Unfortunately, for soybean producers in 1986, the establishment of the price support loan level will effectively set the market price. And, as you know, soybean producers do not have income protection in the way of target prices to help soften a drop in prices. Thus, soybean producers are faced with the sobering realization of a $4.77 per bushel loan rate—a loan rate which could fall even further after Gramm-Rudman-Hollings cuts.

As many are aware, I am a marketing loan advocate. I think it is a more efficient and effective method of addressing agriculture's relationship with government while allowing the needed flexibility to compete in an ever changing and challenging marketplace. The marketing loan encourages redemption and sales and not forfeiture and storage. Agriculture is facing a severe cash-flow shortfall and is suffering because it is finding many commodities noncompetitive in the marketplace. I strongly feel the marketing loan, over the long haul, is a much better investment of taxpayer dollars. It will allow agriculture the time to stabilize and better cope with the changing supply-demand situations while maintaining a competitively priced commodity.

Mr. President, the Congressional Budget Office and USDA, I am sure, will say the $5.02 per bushel loan with the marketing loan option will be far too costly to implement. However, I have yet to see any figures that give the marketing loan credit for savings found in storage, acquisition costs or interest—not to mention an economic savings resulting from the recapturing of lost traditional markets due to our new ability to be price-competitive. And, I am just as sure no one will compute the savings accrued by putting people back to work and paying taxes, and utilization of stagnant facilities and resources in agriculture's infrastructure.

Mr. President, let's do what is right and what is needed for our soybean producers. Let's reemphasize the Senate's intent, made clear in the unanimous passage of our sense of the Senate Resolution that USDA has chosen to ignore. Today, I am pleased to join Senator BUMPERS in offering a bill that mandates an effective soybean program. One that addresses the severe problems of American agriculture and allows our farmers to compete once again in the world market.●

Mr. BUMPERS. Mr. President, I ask unanimous consent to have the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2836

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUPPORT PRICE AND MARKETING LOANS FOR 1986 CROP OF SOYBEANS.

(a) SUPPORT PRICE.—Effective only for the 1986 crop of soybeans, section 201(i)(2)) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)(2) is amended by inserting "(other than the marketing year for the 1986 crop of soybeans)" after "a marketing year".

(b) MARKETING LOANS.—Effective only for the 1986 crop of soybeans, section 201(i) of such Act is amended—

(1) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7);

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) In the case of the 1986 crop of soybeans, the Secretary shall implement the provisions of Plan A or Plan B in accordance with this paragraph.

"(B)(i) If the Secretary elects to implement Plan A, the Secretary shall permit a producer to repay a loan made under this subsection for a crop at a level that is the lesser of—

"(I) the loan level determined for such crop; or

"(II) the prevailing world market price for soybeans, as determined by the Secretary.

"(ii) If the Secretary elects to implement Plan A, the Secretary shall prescribe by regulation—

"(I) a formula to define the prevailing world market price for soybeans; and

"(II) a mechanism by which the Secretary shall periodically announce the prevailing world market price for soybeans.

"(C)(i) If the Secretary elects to implement Plan B, the Secretary shall, for the 1986 crop of soybeans, make payments available to—

"(I) producers who, although eligible to obtain a loan or purchase agreement under this subsection, agree to forgo obtaining such loan or agreement in return for such payments; and

"(II) in the case of producers who have placed their soybeans under such loan or agreement, producers who agree to redeem such loan or agreement and to forgo obtaining such loan or agreement in return for such payments.

"(ii) A payment under this subparagraph shall be computed by multiplying—

"(I) an amount equal to 20 percent of the loan payment rate; by

"(II) the quantity of soybeans the producer is eligible to place under loan."; and

(3) in paragraph (4)(A) (as redesignated by paragraph (2)), by striking out "If" and inserting in lieu thereof "In the case of each of the 1987 through 1990 crops of soybeans, if".

(c) OTHER OIL SEEDS.—The Secretary shall consider the impact of this Act on other oil seeds that do not participate in price support programs, and shall consult with producers of such oil seeds.

By Mr. PELL:

S. 2837. A bill to amend the Federal Election Campagin Act of 1971, to provide free radio and television time to

national committees in elections for Federal office; to the Committee on Commerce, Science, and Transportation.

FREE POLITICAL BROADCASTING ACT

● Mr. PELL. Mr. President, I am introducing today the Free Political Broadcasting Act of 1986, as an amendment to the Federal Election Campaign Act.

The purpose of this bill is simple and straightforward. It seeks to attack the problem of spiraling costs of Federal political campaigns at its source. It would make available at no cost the one element which has contributed the most to the cost spiral and that is media broadcast time.

The bill requires radio and TV stations and networks, as well as community antenna television stations, to provide time for campaign use to the national committees of the political parties, which would in turn allocate the time to eligible candidates for Federal office.

Committees receiving free broadcast time may use up to 15 minutes per day for the 30-day period immediately preceding an election.

All time is to be provided during the so-called prime time access period, from 7:30 to 8 p.m. local time, each weekday evening. Under current FCC regulations, this is a time period which local stations are supposed to use for community-oriented programming, but which in practice is not always well used.

The free time must be used in a manner which promotes a rational discussion and debate of issues pertinent to the election involved. At least 75 percent of the time must be taken up by a candidate's own remarks.

While the bill does place an administrative burden on the parties, I suggest that it is a burden they should be glad to accept. The plan of the bill permits the party organizations to decide which of their candidates—particularly in metropolitan areas where many Federal candidates may be in contention—can best benefit from the media exposure offered by the bill. Hopefully, this feature of the bill will meet reservations expressed before the Senate Committee on Rules and Administration when it heard testimony on free media time and related proposals in 1983.

The bill is in no way restrictive of present campaign practices. Any candidate, whether or not a recipient of free time under this bill, is still at liberty to go out and purchase as much additional media tiee as he or she can afford and needs. Hopefully, hgwever, the substantial infusion of free time provided by the bill will reduce substaftially campaign expenditures for media purchases.

Fifally, I would emphasize that thas is essentially a no-cgst bidl in terms of the value gf the eedia tiee that would be given to the political prgcess. There is to be sure an authorization for appropriations that may be feeded to eeet the modest costs of overseeifOg compliance. But the basic commodity of the bidl is an existing public resgurce—namely the airwaves—whach the Congress can properly require to be used for political debate.

Mr. President, recent figures indicate that at least 40 percent of all political campaign expenditures—and up to 75 percent in some media markets—are spent on media advertising. If we are truly concerned about curbing the cost of campaigning, it makes sense to use an available public resource to substitute for this major category of expenditure. If we can thereby reduce costs, we will be reducing the pressure to raise funds from PAC's and all other sources and the political process will benefit proportionally.●

ADDITIONAL COSPONSORS

S. 1456

At the request of Mr. LAUTENBERG, the names of the Senator from Ohio [Mr. GLENN], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 1456, a bill to recognize the Army and Navy Union of the United States of America.

S. 2115

At the request of Mr. THURMOND, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2115, a bill to recognize the organization known as the 82d Airborne Division Association, Inc.

S. 2398

At the request of Mr. ROTH, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2398, a bill to amend title 18 of the United States Code to ban the production and use of advertisements for child pornography or solicitations for child pornography, and for other purposes.

S. 2454

At the request of Mr. MURKOWSKI, the names of the Senator from Florida [Mr. CHILES], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 2454, a bill to repeal section 1631 of the Department of Defense Authorization Act, 1985, relating to the liability of Government contractors for injuries or losses of property arising out of certain atomic weapons testing programs, and for other purposes.

S. 2512

At the request of Mr. HATCH, the names of the Senator from South Carolina [Mr. THURMOND], and the Senator from Nebraska [Mr. ZORINSKY] were added as cosponsors of S. 2512, a bill to amend the Federal Food, Drug, and Cosmetic Act, the Federal Meat Inspection Act, and Poultry Products Inspection Act, and the Egg Products Inspection Act, and for other purposes.

S. 2536

At the request of Mr. HATCH, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2536, a bill to provide for block grants to States to pay for the costs of immunosuppressive drugs for organ transplant patients.

S. 2770

At the request of Mr. COCHRAN, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 2770, a bill to amend the Farm Credit Act of 1971 to provide the opportunity for competitive interest rates for the farmer, rancher, and cooperative borrowers of the Farm Credit System, and for other purposes.

S. 2771

At the request of Mr. HATCH, the names of the Senator from Nebraska [Mr. ZORINSKY], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 2771, a bill to require the Secretary of Health and Human Services to determine the appropriate regulatory classification of the transitional devices of the Medical Device Amendments of 1976 to the Food, Drug, and Cosmetic Act and for other purposes.

S. 2781

At the request of Mr. EVANS, the names of the Senator from North Carolina [Mr. BROYHILL], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 2781, a bill to amend the Energy Policy and Conservation Act with respect to energy conservation standards for appliances.

S. 2794

At the request of Mrs. KASSEBAUM, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 2794, an original bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

SENATE JOINT RESOLUTION 339

At the request of Mr. HATCH, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Arkansas [Mr. PRYOR], the Senator from Wisconsin [Mr. KASTEN], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from California [Mr. WILSON], the Senator from Ohio [Mr. GLENN], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Joint Resolution 339, a joint resolution to designate the week of November 30, 1986, through December 6, 1986, as "National Home Care Week."

SENATE JOINT RESOLUTION 395

At the request of Mr. HATCH, the names of the Senator from Missouri [Mr. EAGLETON], the Senator from Virginia [Mr. TRIBLE], the Senator from

Hawaii [Mr. INOUYE], the Senator from Pennsylvania [Mr. SPECTER], the Senator from South Dakota [Mr. ABDNOR], the Senator from North Dakota [Mr. ANDREWS], the Senator from Maryland [Mr. SARBANES], the Senator from Mississippi [Mr. STENNIS], the Senator from Oklahoma [Mr. BOREN], the Senator from Rhode Island [Mr. PELL], the Senator from New Jersey [Mr. BRADLEY], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Ohio [Mr. GLENN], the Senator from Indiana [Mr. QUAYLE], the Senator from California [Mr. WILSON], the Senator from California [Mr. CRANSTON] the Senator from New Jersey [Mr. LAUTENBERG], were added as cosponsors of Senate Joint Resolution 395, a joint resolution to designate the period October 1, 1986, through September 30, 1987, as "National Institutes of Health Centennial Year."

SENATE JOINT RESOLUTION 396

At the request of Mr. HATCH, the names of the Senator from Virginia [Mr. TRIBLE], the Senator from South Carolina [Mr. HOLLINGS], the Senator from South Dakota [Mr. ABDNOR], the Senator from Rhode Island [Mr. PELL], the Senator from Missouri [Mr. EAGLETON], the Senator from Ohio [Mr. GLENN], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. LEAHY], the Senator from Virginia [Mr. WARNER], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Indiana [Mr. QUAYLE], the Senator from Maryland [Mr. MATHIAS], and the Senator from California [Mr. CRANSTON], were added as cosponsors of Senate Joint Resolution 396, a joint resolution to designate the week of October 26, 1986, through November 1, 1986, as "National Adult Immunization Awareness Week."

SENATE JOINT RESOLUTION 401

At the request of Mr. GORE, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of Senate Joint Resolution 401, a joint resolution to designate the week of October 12, 1986, through October 18, 1986, as National Job Skills Week."

SENATE JOINT RESOLUTION 407

At the request of Mr. CHILES, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of Senate Joint Resolution 407, a joint resolution designating November 12, 1986, as "Salute to School Volunteers Day."

SENATE JOINT RESOLUTION 414

At the request of Mr. PACKWOOD, the names of the Senator from Arizona [Mr. GOLDWATER], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of Senate Joint Resolution 414, a joint resolution to designate March 16, 1987, as "Freedom of Information Day."

SENATE CONCURRENT RESOLUTION 130

At the request of Mr. HOLLINGS, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Texas [Mr. GRAMM], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Concurrent Resolution 130, a concurrent resolution to recognize the visit by the descendants of the original settlers of Purrysburg, SC, to Neufchatel, Switzerland, in October of 1986 as an international gesture of goodwill.

SENATE CONCURRENT RESOLUTION 156

At the request of Mr. CRANSTON, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Concurrent Resolution 156, a concurrent resolution expressing the sense of Congress concerning the need for international cooperative efforts to identify the individuals exposed to radiation as a result of the nuclear accident at Chernobyl in the Soviet Union and to monitor the health status of those individuals so as to increase, for their benefit and the benefit of the citizens of the United States and of all the world's peoples, the level of understanding of the effects of exposure to radiation.

SENATE CONCURRENT RESOLUTION 160

At the request of Mr. SIMON, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of Senate Concurrent Resolution 160, a concurrent resolution expressing the sense of the Congress that the jamming of radio broadcasting is contrary to the best interests of the people of the world and should be terminated.

SENATE RESOLUTION 464

At the request of Mr. ROTH, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Idaho [Mr. MCCLURE], the Senator from Nevada [Mr. LAXALT], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Oregon [Mr. PACKWOOD], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Resolution 464, a resolution to designate October 1986 as "Crack/Cocaine Awareness Month."

SENATE CONCURRENT RESOLUTION 162—COMMEMORATING THE 100TH ANNIVERSARY OF THE BIRTH OF DAVID BEN-GURION

Mr. BOSCHWITZ submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 162

Whereas David Ben-Gurion is a man of great historical importance, not only to the Jewish people but to all people striving for freedom;

Whereas his leadership made realizable the ingathering of the exiles that brought millions of homeless Jews scattered throughout the world to Israel where they were united both with each other and with their ancient homeland;

Whereas the Declaration of Independence of the State of Israel, a milestone in the life of David Ben-Gurion, echoes our own Declaration in its recognition of the universal equality of man;

Whereas as Israel's first Prime Minister and Minister of Defense, Ben-Gurion led the newly formed State through its most difficult period, directing the desperate efforts to secure Israel's survival and independence;

Whereas his pragmatic solutions to Israel's overwhelming problems, paralleled with his desire to create a society based on justice and peace, guided the fledgling State and formed the values on which Israel rests today and the basis for what Israel strives for in the future;

Whereas Ben-Gurion's vision of the Greening of the Desert through the application of science and technology continues to be an important aspect of Israel, as well as a factor that can help solve food production problems in arid regions all over the world;

Whereas this year marks the hundredth anniversary of the birth of David Ben-Gurion, leader of his people for two generations;

Whereas the United States and Israel share many of the same fundamental values of democracy and freedom, and a common history of accepting immigrants from all over the globe: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States, in this the centennial of David Ben-Gurion's birth, joins in the celebration of this great statesman, urges all Americans to take note of this commemoration, and applauds The David Ben-Gurion Centennial Committee of the United States of America in its work promoting the yearlong national celebration of David Ben-Gurion and his achievements.

Be it further resolved that Congress urges the President of the United States to issue a proclamation in honor of this celebration.

● Mr. BOSCHWITZ. Mr. President, October 16, 1986 marks the 100th anniversary of the birth of David Yosef Gryn, who came to be known to the world as David Ben-Gurion. Ben-Gurion's centennial is so important because of his role in the creation of the modern state of Israel, his ability to organize a communal infrastructure where none existed and to mobilize the resources and imagination of a downtrodden people. We celebrate a man whose being has touched millions, whose image is burned into the history of humankind's universal struggle for freedom.

Ben-Gurion, as his name suggests, was one of the lions of the 20th century. His memory is tied up in the life and pulse of the very fabric of what has become modern Israel. At the same time, his dream and strength reflect the visions of ancient Israel.

Ben-Gurion centennial celebrations are being held not only in Israel but all over the world. Recognizing the special relationship between the United States and the state of Israel, and the affection Ben-Gurion felt for America, I take great pride in submitting a con-

current resolution commemorating the 100th anniversary of the birth of David Ben-Gurion.●

SENATE CONCURRENT RESOLUTION 163—RELATIVE TO A REDUCTION IN THE NUMBER OF SOVIET DIPLOMATS IN THE UNITED STATES

Mr. DECONCINI submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 163

Whereas Gennady Zakharov, a Soviet employee of a United Nations agency, was arrested on an act of espionage in New York by the Federal Bureau of Investigation on August 23, 1986;

Whereas Nicholas Daniloff, an American journalist for "U.S. News and World Report" in Moscow, was subsequently arrested by Soviet authorities on August 30, 1986, and accused of spying;

Whereas Mr. Daniloff's detention appears to be in retaliation for the Zakharov arrest and both individuals have been subsequently released on similar terms to their respective embassies in Moscow and New York;

Whereas this equation of an apparently innocent American journalist with a Soviet citizen accused of caculatedly obtaining American defense and military secrets dampens the spirit, and hinders the progress, of the upcoming meeting between Secretary of State George P. Shultz and Soviet Foreign Minister Eduard A. Shevardnadze;

Whereas continued impasse on this critical issue threatens potential progress in such areas as summitry, arms control, and economic and cultural exchanges;

Whereas the total number of Soviet diplomatic agents in Washington, D.C., and Soviet consular officers in San Francisco is 313, yet the total number of American diplomatic agents in Moscow and American consular officers in Leningrad is only 249; and

Whereas sending a strong signal to the Kremlin regarding United States sentiment on this issue is important to the American people: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the total number of Soviet diplomatic agents at the Soviet diplomatic mission in Washington, D.C., and Soviet consular officers at the Soviet consulate in San Francisco should be reduced to equal the total number of American diplomatic agents at the United States diplomatic mission in Moscow and American consular officers at the United States consular post in Leningrad.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Mr. DECONCINI. Mr. President, it has been almost 3 weeks since the clumsy arrest of an American journalist in Moscow. The Soviets have subsequently attempted to link Mr. Nicholas Daniloff with Mr. Zakharov, who was arrested on August 23, 1986, and subsequently indicted on three counts of espionage. I would like to strongly encourage the Soviets, in no uncertain terms, that continuing to connect these two cases seriously erodes American public and congressional support for improving United States-Soviet relations on all issues. This is a direct insult to the world's sense of fairness, justice, and free press.

Currently, Mr. Daniloff and Mr. Zakharov have been released under similar conditions to their respective embassies. Mr. Daniloff is a prisoner in Moscow. Mr. Daniloff's ordeal is an outrage. Mr. Daniloff is a victim of Soviet tactics employing brute force to achieve their objectives. This is not acceptable and cannot be tolerated.

Americans have experienced difficult times lately with terrorism and hostage situations. All of America grieves when one of its members is taken hostage. You recall, Mr. President, when every State united in sending a message to our captured hostages in Iran with yellow ribbons. We consoled each other when Mr. Klinghoffer was killed on the *Achille Lauro* and more recently when two more Americans were kidnaped in Beirut. Now, Mr. Daniloff is captured and stranded in Moscow. A whole society anguishes when one of its members is taken hostage. We have moved from Iran, to Beirut, to Moscow.

Mr. Haynes Johnson, a reporter for the Washington Post, and I imagine, a friend of Mr. Daniloff, recently wrote:

Nicholas Daniloff is their [the Russians] latest victim. He is, in fact, an American hostage. In a symbolic and real sense, every American will be imprisoned until he is freed.

President Reagan has called the Soviet detention of Mr. Daniloff an outrage and reiterated warnings that this episode is endangering United States-Soviet relations. I am certain the President is attempting to secure his release. I have carefully debated whether Congress should act in this matter, or allow the President to pursue his own efforts through open and private channels. I have anguished with the American public since August 30. While there are numerous options, many much stronger than others, some type of signal must be sent to the Kremlin. The signal must not waiver in its resolve. It should address the Americans disgust and frustration yet apply firm pressure. Realistically, it should be a goal that is achieved on its own merits. Ideally, it will convey the American people's resolve to address this problem. Politically, it should convey to the Soviets that Americans cannot be bargained or traded.

The resolution that I am introducing is fair, simple, and direct. It clearly states that the Soviets should have the same number of diplomats in their embassy in Washington and consulate in San Francisco as we have American diplomats in Moscow and Leningrad. This is simple parity. Currently, the Soviets have 274 diplomats in Washington and 39 in San Francisco, for a total of 313. The United States has 221 diplomats in Moscow and 28 in Lenningrad, for a total of 249. Therefore, the Soviets should reduce their presence in the United States by 64 diplomats. Additionally, curtailing the number of diplomats will hurt their future ability to spy.

There are many more severe and draconian actions which the United States could initiate. This resolution seems fair in principle and even in its tone. Two of my colleagues, Senators LEAHY and COHEN, have introduced legislation addressing this parity problem with the Soviet mission at the United Nations. This was before the Daniloff incident. My resolution should send a clear signal to the Kremlin, yet hopefully will not touch off a round of retaliation.

The message here should be clear. The United States will not deal with exchanging spies for innocent hostages. There is a great deal at stake in United States-Soviet relations, but the summitry has little point if America is held hostage.

AMENDMENTS SUBMITTED

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1987

WALLOP AMENDMENTS NOS. 2845 THROUGH 2849

(Ordered to lie on the table.)

Mr. WALLOP submitted five amendments intended to be proposed by him to the bill (H.R. 5161) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1987, and for other purposes; as follows:

AMENDMENT NO. 2845

Provided, That none of the funds appropriated for the Legal Services Corporation shall be used to support any recipient that fails to ensure that its officers and employees do not—

(a) Intentionally identify the Corporation or its recipients with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

(b) Engage in activities that are prohibited to employees in an Executive agency or in the competitive services by sections 7321, 7322, 7323, 7324, 7325, 7326, and 7327 of title 5, United States Code, or by the regulations promulgated thereunder.

AMENDMENT NO. 2846

Provided, That none of the funds appropriated for the Legal Services Corporation shall be used to solicit clients for purposes of pursuing litigation against owner landlords. "Solicitation" means entering the premises of an apartment or other housing facility without an invitation from the tenant.

AMENDMENT No. 2847

Provided, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used for the purchase of real estate unless the Board by a two-thirds vote of the members approves of such a purchase.

AMENDMENT No. 2848

Provided, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used—

(1) To provide, or to support in whole or in part, any legal assistance or legal activity of any attorney with respect to any proceeding or litigation relating to nuclear power;

(2) To support in whole or in part, or to distribute or disseminate in any manner any legal research or publications on legal theories, strategy or legislation in connection with nuclear power; Except that nothing in this paragraph shall prohibit an attorney from informing an eligible client upon request of the client's legal rights or responsibilities.

AMENDMENT No. 2849

Provided, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to employ or compensate any person who, within a period not to exceed two years after serving as an officer or employee of the Corporation or of any recipient, has participated personally and substantially through decision, approval, disapproval, recommendation, the furnishing of advice, investigation, or otherwise, in a matter involving the application for, or the approval of funding to, any recipient.

● Mr. WALLOP. Mr. President, I have submitted five amendments to clarify the funding for the Legal Services Corporation, which is included in H.R. 5161, the appropriations bill for State, Justice, Commerce, and related agencies. The amendments basically endorse current administrative practices to clean up the operation of the Legal Services Corporation. For years, the Legal Services Corporation had been abused as an ideologically oriented lobbying group. The administration of this Federal agency under President Reagan has put an end to this abuse. Unfortunately, the current appropriations bill would frustrate many of these reforms. The amendments I have introduced prohibit funds being used to return us to past abuses.

There is a definite need for legal services. In my own State of Wyoming, the program has been effectively directed to assisting clients with their legal problems. Unlike many other areas of the country, the Wyoming program has not been an advocacy group, but rather has provided real and necessary legal services.

The major problem in my State has been funding. The amendments I am introducing will ensure that our limited funding for this program is properly used. I would like to briefly explain the amendments.

The first amendment is the conflict of interest amendment. The purpose of this amendment is to prevent the kind of abuses that occurred in 1981 when three employees of the Corporation later became employees of a recipient. As you know, in that year the director of LAS' Office of Field Services transferred the money in the LSC technical assistance fund to the National Legal Aid and Defender Association [NLADA]. This transfer was of over $2 million, even though NLADA had earlier justified a grant of only $50,000. Not long afterward, the LSC field services director became the executive director at NLADA and his deputy became a consultant there. Ironically, when such a transfer to NLADA was proposed in 1978, an earlier field services deputy had referred to it as a "money grabbing" proposal. Yet after the transfer finally went through 3 years later, this same gentleman showed up on NLADA's Board of Directors.

This amendment would prevent such future occurrences by placing a reasonable 1-year restriction on Legal Services Corporation employees so that during that time they could not begin working for a recipient with whom they were involved in the funding process.

This is the same restriction which this Congress has wisely placed on employees of the executive branch and Federal Government agencies.

Clearly, recipients should be funded on the basis of need and not on the promise of personal financial gain. Such a system does not help poor persons get legal representation, it just helps nonpoor ones get a lot richer. At the very least, the appearance of impropriety is created when those responsible for the funding of another become employees of the other shortly thereafter. A 1-year waiting period should be sufficient to remove any appearance of impropriety—and restore some badly needed respectability to the Legal Services Corporation.

The second amendment involves tenant solicitation. This amendment would serve to prevent the solicitation of tenant clients by Legal Services attorneys. As you know, tantamount among the abuses of some Legal Services attorneys, abuses that tarnish the fine work done by others, are those against landlords. Landlords who have committed no sin other than that of renting to persons eligible for legal aid are finding themselves targeted for virtual bankruptcy by Legal Services lawyers.

The list of such abuses is legion. One landlady in New York City incurred $57,000 in expenses to evict a tenant from his $9,850 a month apartment. The landlady offered him no less than $12,000 to move out, but the tenant's Legal Services attorney refused to settle for anything less than $75,000. Another woman in that city has seen almost her entire life savings of $30,000 eaten up in litigation fees by Legal Services attorneys who get their fees from the U.S. Government and the taxpayers. In California, a woman leased her building to be used to provide medical services for poor people. After a year and a half, no medical service had been provided for anyone. It transpired that the facility was only being used to milk off grants from the State, which grants then went back into the operators' pockets. So the owner took the building back, as the lease allowed under such circumstances. Despite the legality of their action, Legal Services slapped a lawsuit on her and by the time the litigation ended this poor landlady had become just that, poor.

The third amendment involves political activity. My amendment is taken from the authorization bill offered by the chairman of the Appropriations Committee. I'm sure he won't have any problem with it. The amendment would prohibit all the officers and employees of a recipient from engaging in activities prohibited under the so-called big Hatch Act—5 U.S.C. 7321-7327. Currently staff attorneys, but not other recipient employees, are subject to the restrictions set forth in the little Hatch Act—5 U.S.C. 1502(a). The little Hatch Act is narrow in scope and only prevents staff attorneys from being candidates for elective office—5 U.S.C. 1502(a)(3)—and from using their political authority to affect the result of an election. As a result recipient employees have ample opportunity to use their position to influence the local democratic process unfairly.

The big Hatch Act would apply the same restrictions to recipients that the little Hatch does. In addition it would prohibit recipient employees from taking an active part in political management or political campaigns. Under the regulations promulgated pursuant to the big Hatch Act, recipient employees would be expressly prohibited from serving as officers of political parties; members of national, State, or local committees of political parties; officers or members of committees of political clubs; or from being candidates for any of these positions—5 CFR 733.122 (b)(1). The big Hatch Act would prohibit recipient employees from using their official authority to coerce the political action of a person or body—5 U.S.C. 7322. Under the regulations promulgated pursuant to the little Hatch Act, however, recipient employees may engage in all of these activities—5 CFR 151.122(f).

We don't want Legal Services attorneys or employees managing election campaigns. We don't want them serving on the platform or rules committees of either the Republican or Democratic Parties. The big Hatch Act ought to apply to them.

The fourth amendment involves real property.

Corporation grantees have acquired over $15 million in total real property, some of which were purchased contrary to Corporation requirements. For example, a grantee in North Carolina spent over $140,000 to refurbish property without prior Corporation approval. Similarly, another grantee in Birmingham, AL, purchased a building without LSC approval; the cost thus far has been more than $500,000 and another $300,000 is expected to be incurred.

As a matter of policy, and especially during these times of dwindling resources, funds should be spent on legal services for the poor and not on land for lawyers. Although there are exceptions to this general rule, real estate purchases should, at the very least, receive strict scrutiny from higher authority; that is, the Board.

Moreover, there are two practical problems in the purchase of real estate by a grantee. First, it is unclear whether the Corporation can always retain full interest in property owned by a local program if that program is defunded, becomes bankrupt or is disbanded. Agency principles do not, as a general rule, apply to the LSC. Second, in the event of emergency, a local program will not likely be able to obtain its funds quickly due to the nonliquid nature of real property. The capital assets of a Legal Services program should be readily available for conversion, not tied up in a manner likely to be inimical to the program itself.●

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ANDREWS. Mr. President, I would like to announce for the information of the public that the Select Committee on Indian Affairs will be holding an oversight hearing on Tuesday, September 23, 1986, at 10 a.m., in Senate Russell 385 on the Indian Trust Fund and the Treasury Department's request for proposal regarding the fund, and for other purposes.

Those wishing additional information should contact John Vance of the committee at 224-2251.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. ROTH. Mr. President, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a hearing on emerging criminal groups—Asian.

The hearing will be held on Wednesday, September 24, 1986 at 9:30 a.m. in Senate Dirksen 342. For further information please contact Daniel F. Rinzel or Cynthia Christfield of the subcommittee staff at 224-3721.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Tuesday, September 23, 1986, at 9:30 a.m., to hold hearings.

The committee will be receiving testimony on Senate Joint Resolution 268, providing for the reappointment of Murray Gell-Mann as a citizen regent to the Smithsonian Board of Regents.

The committee will also continue the oversight hearing begun on July 30, 1986, on the operations and functions of the Office of the Sergeant at Arms of the Senate.

For further information regarding this hearing, please contact Carole Blessington of the Rules Committee staff on x40278.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, September 18, until 12:30 p.m., to hold a markup on pending legislative business and executive nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CIVIL SERVICE

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Civil Service of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, September 18, to conduct a hearing on the following civil service retirement credit legislation: S. 2734, S. 1800, and H.R. 3006.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, September 18, to hold an oversight hearing on the domestic and international petroleum situation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CALL TO CONSCIENCE ON BEHALF OF THE MANEVICH AND KARLIN FAMILIES

● Mr. BRADLEY. Mr. President, I rise today as part of the Congressional Call to Conscience Vigil which has for the last 10 years focused attention on a travesty of freedom, justice, and dignity: The Soviet Union's denial of religious freedom and emigration to Soviet Jews.

Ironically, the Congressional Call to Conscience began shortly after the Soviet Union committed itself to uphold internationally recognized standards of human rights and freedoms. There was reason for optimism following the acceptance of the Helsinki accords as Soviet restrictions on emigration eased during the years 1976-79. But a precipitous decline in exit visas in the 1980's reversed this trend. At the apex in 1979, the Soviets granted 51,320 exit visas to Soviet Jews, but by 1985 the number had dropped to 1,140. Equally distressing are the anti-Semitic sanctions to which Jews remaining in the U.S.S.R. are subject. Indeed, their strength and perseverance testifies to the overriding desire for men and women to be free.

I would like to speak in particular about the David Karlin and Vjacheslav Manevich families of Leningrad, which have been adopted by Temple Emanu-el of West Essex in Livingston, NJ. Both are directly related to Mikhail Manevich, the cantor at Temple Emanu-el, and his wife, Ema. Their cases typify the plight of the 400,000 Soviet Jews awaiting permission to emigrate.

The David Karlin family of Leningrad was first refused exit visas in 1976 on the false grounds that Mr. Karlin knew state secrets. The family has been applying for the last 10 years, but have been repeatedly denied. In 1978, the Karlins submitted an American invitation sent directly from their son, a U.S. citizen, but were refused and told never to apply for an exit visa with an invitation from the United States. Officials then ignored them when they sought an appointment to receive an explanation.

Mr. Karlin was dismissed from his job as a financial administrator of a Leningrad electronics company in 1974 when his brother applied for an exit visa. He was unemployed for 6 months, finally finding a job as a law teacher at a school for professional truck drivers. This job ended when the Soviets told him he couldn't teach Soviet students if he had applied to emigrate. He was then unemployed for 2 years, until he found a job working for the State insurance agency. Although in 1978 Mr. Karlin was told that he would be cleared of all the secrets in 5 years, the Karlins were again refused exit visas in January 1986.

Vjacheslav, Inna, and Ilja Manevich have applied to emigrate since 1980. The Soviet Government most recently refused to grant them exit visas in February 1986. They were told that because Inna's parents do not wish to emigrate, their family would be required to stay in the Soviet Union. The irony here is that all of the Manevich family, with the exception of those just mentioned, now live in the West. After their first application, Vjacheslav lost his position as an engineer, and now works in a low-paying nonprofessional capacity.

71-059 O-87-11 (Pt. 17)

Mr. President, as we in the West enjoy religious and political freedom, we must not forget the ongoing struggle of those who are categorically denied the basic right to live where they choose. While the number of Jewish refuseniks rises, we must also continue to raise our voices for those whose pleas repeatedly fall on unsympathetic ears. And today, I call upon the Soviet Government to hear the pleas of the Karlin and Manevich families, and to grant their exit visas promptly.●

LIABILITY THREAT SLOWS PROGRESS OF MEDICAL TECHNOLOGY

● Mr. BROYHILL. Mr. President, I call the attention of my colleagues to an article entitled "Liability Threat Slows Progress of Medical Technology," which appeared recently in the Charlotte Observer. The article's author is Frank E. Samuel, Jr., president of the Health Industry Manufacturers Association.

We in the Senate have been wrestling with the problem of product liability for some time now, and I think this article sheds light on what the liability crisis is costing all of us in terms of medical progress. The fact is, as Mr. Samuel points out, it may be quietly reshaping medical innovation which will affect each one of us. As we continue an examination of the product liability problem, I hope we will keep Mr. Samuel's point of view in mind.

I respectfully request that it be included in the CONGRESSIONAL RECORD.

The article follows:

LIABILITY THREAT SLOWS PROGRESS OF MEDICAL TECHNOLOGY

(By Frank E. Samuel, Jr.)

WASHINGTON.—Suppose you developed a technology that could dramatically improve the survival rate from an otherwise deadly disease. The venture capital would undoubtedly roll in, and your product would give patients a better life and you a chunk of the American dream. Right?

Think again. Lawsuits from families of those the technology couldn't save may very well keep you out of business—even if your product isn't shown to cause an injury. If product liability reforms aren't enacted by Congress and the states, this problem could threaten the quality of U.S. health care.

Medical innovation may be the most important, but least known, victim of the lawsuit mania sweeping the country.

While insurers and lawyers lob charges back and forth about who's to blame in the liability crisis, a threat to the next generation of life-saving technology—hence to consumers—goes unnoticed.

The reason? The effects of "defensive innovation" don't show up right away. That's what happens when companies spend research dollars not in advancing medical science, but in covering their flank from the risk of lawsuits.

When a public swimming pool takes down a diving board to avoid liability or a public park bans sledding, the public knows about it. But a shift in scientific innovation is tough to spot. The public may never know that a medical break-through died on the drawing board because liability risk made it unprofitable.

This is not just a hypothetical problem. Companies that should be pushing forward the capabilities of medical technologies are instead dropping entire product lines to avoid multimillion dollar lawsuits and skyrocketing insurance rates. Only one company now makes measles, mumps and rubella vaccine; only two make anesthesia gas machines and only four (two of which are foreign) make infant ventilators—devices that help critically ill babies breathe. Beyond that, companies are exiting the contraceptive products market because of the fear of liability suits, thereby narrowing consumer choice in birth control.

A leading manufacturer of critical-care equipment dropped out of the market for anesthesia gas machines because of the liability explosion. The company also makes adult ventilators, but has shied away from infant ventilators because of potential lawsuits and insurance costs. Common sense says infant ventilators should be profitable. They are key factor in boosting the survival rate for premature babies with respiratory distress syndrome from 30% to over 90%. But the risk of multimillion dollar suits by families of those 10% who can't be saved is so great that some manufacturers have become unwilling to compete in this market.

Important products like infant ventilators might not even be available today had the current liability climate existed 20 years ago, when research on the devices was beginning. Would we now be safe from polio if vaccine innovators had faced today's threat of lawsuits 30 years ago?

Intellectually, American society is probably willing to accept the inherent risks of medical advancement. But individually, Americans can't resist the temptation of multimillion dollar claims. And they are encouraged by jury awards against manufacturers, even when it's not clear that their product caused an injury. In overreaching to protect individual consumers on a case-by-case basis, courts unwittingly put future health care quality for the entire society at risk.

Federal and state liability reform can help protect the public from the decline in innovation that the current system is causing. Already, legislative proposals have been made at the state and federal levels to:

Limit payments for noneconomic losses—that is, pain and suffering in liability suits.

Prohibit awards against manufacturers when a product isn't clearly at fault.

Discourage frivolous lawsuits.

These provisions would be a first step toward clarifying the diverse and confusing liability laws, and toward guarding the public against a slide in medical innovation that threatens everyone's health.

ABA-SOVIET LAWYERS

● Mr. GRASSLEY. Mr. President, I was disappointed to see that the ABA, at its August meeting, decided to proceed with its cooperative agreement with the Soviet Lawyers Association [ASL].

There was a great deal of opposition, including that of the Senate Judiciary Committee, to this agreement. This opposition is due to a number of factors. As an organ of the Politburo, the ASL is in no way comparable to the ABA, a fiercely independent organization dedicated to promotion of the rule of law.

ABA-Soviet formal ties cannot achieve their ostensible purpose—to promote "meaningful dialog" between American and Soviet lawyers. Dialog is only meaningful if both sides are committed to conveying their positions truthfully. This is, unfortunately, not the case with the Association of Soviet Lawyers. The ASL is an extremely exclusive Soviet organization, designed primarily for the purpose of disinforming the public concerning the nature of the repressive Soviet legal system. In this role, the ASL has published the notorious "White Book," a vicious propaganda attack upon the Jewish emigration movement in the U.S.S.R.

Unfortunately the agreement has now gone into effect, and under its auspices, a meeting was held last weekend between the two groups at Dartmouth College. The fact that the ASL was allowed to film this meeting and use it for propaganda purposes is extremely disturbing to me especially in light of the continued detention of Nick Daniloff.

Chris Gersten, executive director of the National Jewish Coalition has cogently pointed out the ludicrous nature of this agreement and it would be beneficial for all the Members of this body to read it. Therefore I ask that the article be printed in the RECORD.

The article follows:

THE ABA AND SOVIET LAWYERS

(By Chris Gersten)

Throughout the American legal and academic communities, preparations are now under way for next year's bicentennial of the adoption of the U.S. Constitution. But as America prepares to celebrate the freedoms enshrined in this document, the nation's pre-eminent legal organization, the American Bar Association (ABA), has taken an action that is at odds with the group's reputation as a defender of liberty and justice.

On July 24, the president of the ABA informed the organization's governing body, the House of Delegates, of a cooperation agreement signed between the ABA and the Association of Soviet Lawyers (ASL). The agreement "pledged to advance the rule of law," and to promote respect for human rights. Superficially, the agreement appears to be a worthy document between two organizations both equally committed to the values of freedom and liberty that Americans hold dear.

In contrast to the ABA, however, the ASL is as far from being committed to liberty and justice as the Kremlin is from promoting free-enterprise and democracy. Like all other professional, cultural, and political organizations in the Soviet Union, the ASL is controlled by the government, and membership is limited to those who are considered "politically reliable."

Although the ASL committed itself in its agreement with the ABA to uphold human rights, the group has, in fact, been in the

forefront of Soviet efforts to deny those same rights. The Kremlin craves legitimacy, among both the Soviet people and the international community. It has, therefore, created the ASL to provide legal rationalizations and spurious legitimacy to such policies to repression as the persecution of Hebrew teachers and the imprisonment of dissidents in "psychiatric hospitals."

Some of the ASL's most virulent attacks have, in fact, been reserved for Soviet Jews, particularly those "refuseniks" whose requests for permission to emigrate to Israel have been denied. In 1979, for example, the ASL published the White Book dealing with the subject of Soviet Jewry, in which Jews who wish to emigrate were said to be inspired by Western "intelligence services." Last May, a second edition of the White Book appeared. Among the attacks on Soviet Jews to appear in this edition, the teaching of Hebrew and the Jewish religion was called "a blatant attempt to affect the psyche of minors in a religious and nationalistic way."

Many Americans may legitimately ask why the ABA should accord an organization such as the ASL recognition and respectability by signing an agreement of mutual cooperation. Certainly, given the ASL's record of opposing all that the ABA stands for, there would appear to be little on which the two groups could possibly agree to cooperate. Instead, it is the recognition of the fact that the Kremlin creates such groups as the ASL to serve its own political ends that has led the AFL-CIO to refuse for three decades to recognize or legitimize Soviet trade unions.

Advocates of the agreement within the ABA have argued that dialogue between American and Soviet lawyers will, indeed, help to promote the goals proclaimed in the agreement. Their arguments succeeded in persuading a majority of the ABA's House of Delegates to approve the agreement.

Now that the agreement is in place, its opponents within the ABA should work to provide the organization with evidence of the ASL's contempt for human rights in the hope that such evidence will lead to the accord's abrogation. For, as America celebrates two centuries of constitutionally guaranteed liberties, there can be no greater affirmation of our own dedication to freedom than the forceful and complete repudiation of the repression that the Soviet legal system seeks to uphold.●

NOMINATION OF JUDGE ANTONIN SCALIA TO BE ASSOCIATE JUSTICE OF THE SUPREME COURT

● Mr. KERRY. Mr. President, I support the nomination of Judge Antonin Scalia as an Associate Justice of the Supreme Court. I support him not because he is liberal or conservative, but because he is a legal scholar of distinction, of principle, and of integrity.

Judge Scalia has a record of excellence in academic achievement. He graduated summa cum laude from Georgetown University in 1957, where he was valedictorian and first in his class. He was an editor of the Law Review at Harvard Law School, and held a Sheldon fellowship at Harvard. He has taught law at the University of Chicago, Stanford University, Georgetown University, and the University of Virginia, and he has been universally recognized as a brilliant legal scholar.

Judge Scalia also served ably as an Assistant Attorney General from 1974 to 1977. From 1982 to the present he has served with distinction as a judge of the U.S. Court of Appeals for the District of Columbia Circuit.

It is no secret that Judge Scalia is deeply conservative in his views. Some legal scholars have made the case that Judge Scalia is even more conservative than Justice William Rehnquist. And I disagree with many of Judge Scalia's views on the proper role of Government and of the judiciary. In particular, I am concerned by Judge Scalia's narrowly limited view of the first amendment, as expressed in opinions such as Liberty Lobby, Inc. versus Jack Anderson.

But I also believe that Judge Scalia is a man of principle and integrity. And I believe that his conservative view of the role of the judiciary will provide a valuable and needed balance on the Supreme Court.

Judge Scalia is known as a builder of consensus on the court of appeals. He has been able to fifd areas of agreement and common ground with judges of widely divergent views. Judge Scalia has been joined in his opinions on the court of appeals by such moderate and liberal jurists as Judge Ruth Bader Ginsburg and Judge Harry T. Edwards. He has shown an ability to forge compromises and sway other judges to his point of view. I believe that those are valuable qualities in a Justice of the Supreme Court.

While I may often disagree with Judge Scalia's views, I respect him as a jurist and a legal scholar. I believe that he will make a positive contribution to the Supreme Court, and I support his nomination.●

HONORING DR. ERNST WEBER

● Mr. D'AMATO. Mr. President, I rise today to bring to the attention of my colleagues a banquet being held in New York City this coming Monday, September 22, in honor of Dr. Ernst Weber on the occasion of his 85th birthday. As we all know, the career of Dr. Weber is synonymous with the development of electrical engineering. In my opinion, this Nation owes Dr. Weber a great debt of gratitude for the major advances he has fostered in this field. I ask that a brief biography of Dr. Weber, prepared by the staff of New York Polytechnic University, the institution with which he is so closely identified, be printed in the RECORD at the conclusion of my remarks.

The biography follows:

DR. ERNST WEBER

Dr. Ernst Weber is internationally recognized as one of the major contributors to the electrical engineering profession in the 20th century. He is one of Polytechnic's most distinguished educators and academic leaders, and has inspired several generations of students and faculty members around the world to achieve distinction in the field.

Dr. Weber, who at 85 continues to maintain an active schedule and close ties with Polytechnic, was professor of electrical engineering from 1930 to 1969. With his leadership, the department's graduate program evolved into one of the largest and most respected in the nation. He served as president for 12 years during one of the University's most dramatic periods of growth—including the move to the present Brooklyn campus and the development of the Long Island Campus in Farmingdale.

Dr. Weber is a member of the IEEE Hall of Fame and served as the IEEE's first president. He is also listed among the IEEE's top ten all-time educators and is a recipient of the coverted IEEE Education Medal.

At Polytechnic, his academic specialties included electromagnetic theory, boundary value problems, transient phenomena in networks, electrical machines, nonlinear systems, and electron theory. He holds more than 30 American, Canadian and British patents in the field of microwave techniques and has published more than 50 papers, as well as the textbooks Mapping of Fields and Linear Transient Analysis.

During World War II, Dr. Weber organized Polytechnic's microwave research group that developed the precision microwave attenuator essential for the accurate calibration of power in radar systems. In recognition of the group's contributions, he was awarded the President's Certificate of Merit.

A native of Vienna, Austria, he began his professional career there, receiving a Diploma of Engineering in 1924 from the Technical University, then working as a research engineer for Seimens Schuckert. He was awarded a Ph.D from the University of Vienna in 1926, and one year later earned a D.Sc from the Technical University.

Weber holds honorary doctorates from Brooklyn Law School, Long Island University, Newark College of Engineering, Pratt Institute, and the University of Michigan.

Today he lives in Tryon, North Carolina. A strong advocate of balancing technology with its social consequences, he has declared, "The technological university has not only the opportunity, but indeed the obligation, to contribute through broad leadership education to the solution of societal problems."●

THE STAR WARS SPINOFF

● Mr. STEVENS. Mr. President, recently, I came across an article in the New York Times magazine by Malcolm W. Browne that deserves the attention of my colleagues. Mr. Browne's article, "The Star Wars Spinoff," discusses some of the potential benefits to both conventional defensive efforts, and to the private sector of the technologies generated by the SDI research. Mr. Browne notes that a Stamford, CT, market research firm has estimated that the commercial applications of SDI technologies will yield sales in the private sector of a magnitude between $5 and $20 trillion.

The promise of SDI is not simply as a means to defend against ballistic missile attack—it is also the extensive

investigation into exotic technologies that may unlock the secrets of fusion energy production, even faster microcomputer switches, and perhaps a new generation of antitank weaponry. The expectations placed on the SDI Program are great—and well they should be—but I expect the benefits of SDI research to transcend ballistic missile defense and provide substantial benefits for conventional defense and across the entire American economy.

I ask that "The Star Wars Spinoff" be printed in the RECORD, and urge my colleagues to take a few minutes to read it.

The article follows:

THE STAR WARS SPINOFF

(By Malcolm W. Browne)

The landscaped industrial park that flanks San Diego's Balboa Avenue hints of well-appointed board rooms, robotic assembly lines and healthy workers bronzed by weekends on the nearby beaches. The street is only a few minutes' drive from Sea World and other tourist magnets, and to the casual visitor it seems as far removed as an American suburb could be from any hint of war or weaponry. But the peaceful mien of the neighborhood is disturbed several times a week by the blast of a stunningly powerful cannon that sends flocks of startled birds into the air and sets off burglar alarms in parked cars over a wide area.

The source of the noise is one of the world's first rail guns, a new breed of electromagnetic artillery potentially capable of piercing the most heavily armored tanks, of picking off intercontinental missiles and battle satellites, and even of hurling projectiles to distant planets.

The rail gun, built by Maxwell Laboratories Inc., and named Checmate (an acronym for Compact High Energy Capacitor Module Advanced Technology Experiment), is about the size of a large merry-go-round and stands in a hangarlike building. One recent morning, flashing red lights and insistent loudspeakers warned nonessential personnel away while technicians sealed off the test building and retreated to the safety of a control shack. As the countdown progressed, pictures and computer data flowed across monitor screens, and workers readied the lasers, X-ray flash cameras and diagnostic sensors used for assessing each shot. The whine of high-power electrical equipment rose to a scream, a supervisor nodded to a controller, and the rail gun fired, sending a shudder through the factory compound, slapping clothing against the legs of passers-by and leaving ears ringing.

Hastily donning gas masks, technicians swarmed into the smoke-filled rail-gun building to look for equipment damage and check the target. Incredibly, a metal projectile scarcely larger than a household nail had been driven into a sandwich of thick steel plates to a depth of several inches. "Nice clean shot," someone observed. "We're moving right along."

In fact, experts say, American efforts to develop an electromagnetic rail-gun launcher—a gadget conceived by weapons makers as long ago as World War I—have achieved in the last two years alone what Defense Department planners had once predicted would take a decade. And credit for the project's impressive progress goes to what may be the most costly and intensive military research program in history: the Strategic Defense Initiative. Together with hundreds of other arcane, high-technology devices, ideas and systems, the rail gun has been selected for grooming and development as part of President Reagan's controversial vision of a defense shield capable of defending the United States against a Soviet balllistic-missile attack.

The merits of the President's plan—promptly dubbed "Star Wars" by advocates and opponents alike—have become a matter of intense worldwide debate. Supporters see it as a means of ending the threat of nuclear devastation. Opponents charge that the program is an exorbitant boondoggle whose stated objective is ruled out by the limitations of technology. Worse, these critics contend, Star Wars defenses might so upset the fragile balance of forces between East and West that war might become more rather than less likely.

Yet even as the debate has raged, Star Wars research has moved ahead quickly, consuming more than $3 billion in the last year alone, and giving unprecedented momentum to a broad range of advanced scientific programs.

The exotic new materials and technologies produced or encouraged by Star Wars research promises to have particular importance for conventional warfare, fostering changes in land combat as radical as whose wrought by the introduction of gunpowder in the Middle Ages. But spinoffs from the President's initiative are also finding their way into a myriad of civilian fields, including energy production, transportation, communications and medicine. Meanwhile, science itself is gaining new research tools from S.D.I. projects.

Critics of S.D.I. point out that the technological side benefits of Star Wars research could be had much more cheaply and efficiently if they were pursued directly rather than as the unintended offshoots of an extravagant military spending program. But S.D.I. proponents assert that in the absence of such a visionary scheme, it is unlikely that such research would have taken place at all. Weapons research, they say, has been a key element in technological progress throughout history, and has nearly always produced byproducts of immense value to mankind. Costly though World War II was in human suffering and destruction, for example, wartime research bequeathed a cornucopia of consolation prizes to the survivors, including plastic, synthetic textiles, antibiotics, jet aircraft and nuclear energy.

How far the President's vision of a space-based strategic defense will ultimately be carried is an open question. Spurred by concern over Federal budget deficits, Congress has already voted significant cuts in S.D.I. funds, and even the program's strongest supporters concede that enormous technical obstacles still loom ahead.

Yet, even if a continental defense is never actually deployed, the long-term impact of S.D.I. research programs promises to be enormous. In laboratories from San Diego to Boston, Star Wars is no longer a mere phrase or debating point. For better or worse, the controversial Strategic Defense Initiative is already yielding new technologies that seem destined to change the world.

Air Force Lieut. Gen. James A. Abrahamson is no stranger to monster-size Federal projects. From 1976 to 1980, he ran the Air Force program that developed the F-16 fighter. Later, he took charge of space-shuttle development for the National Aeronautics and Space Administration, a post he held until 1984.

Now, as director of the Pentagon's Strategic Defense Initiative Organization (S.D.I.O), the 53-year-old General Abrahamson is responsible for what may turn out to be the biggest Federal research project ever. He currently oversees the distribution of about $6 billion to some 1,300 Star Wars contractors in a program whose size rivals even that of the Manhattan Project, the secret World War II program that created the atomic bomb. (The Manhattan Project, from its inception to the destruction of Hiroshima and Nagasaki, cost $2 billion in 1945 dollars, equivalent to approximately $12 billion today. The current five year S.D.I. program, which is intended merely to assess possibilities rather than to build a working weapons system, is expected to cost up to $20 billion.)

"When I got here," General Abrahamson said recently as he shared a sandwich with a visitor to his gadget-strewn Pentagon office, "I began looking for a common denominator in all the big technology programs that had been successful—a common factor applicable to S.D.I. But I couldn't find one. For instance, both the German and British jet-propulsion programs were highly successful, but they achieved success under totally different conditions.

"Finally, I came to realize that the common denominator was to be found not in the successful programs, but in the programs that had failed or come in second best. An example, was the German atomic-bomb program of World War II, a program that was so highly structured and formal that it was unable to correct itself. By contrast, the Manhattan Project was dynamic, contentious, full of scientific give-and-take, and therefore capable of speedily correcting its own errors.

"I concluded that we needed the same rough-and-tumble intellectual approach—the American approach—to S.D.I. research. I decided that it was better to achieve 90 percent of a bold solution than 100 percent of a timid solution."

The resources now dedicated to finding that "bold solution" represent an enourmous national commitment. During the last year, American taxpayers have paid some $3.05 billion for S.D.I. research—nearly $13 for every man, woman and child in the country—and the administration has requested $5.3 billion more in Star Wars money for the coming year. Even if Congress succeeds in cutting this sum—both the House and the Senate have voted substantial reductions—S.D.I. will still remain an important component of the national budget.

Star Wars research, moreover, gets contributions from many sources besides formal S.D.I. appropriations. The Strategic Defense Initiative Organization is less than three years old, and virtually all the projects now under its aegis began with other government agencies and organizations. Overlapping research objectives and financing persist, and much of the technology developed by the Defense Advanced Research Projects Agency, the Defense Nuclear Agency and other organizations indirectly furthers Star Wars objectives. An insider acknowledged that "Star Wars money has a way of losing its color after passing through many hands."

When the S.D.I.O. needs something to be invented or built, it pays handsomely and apportions the task to many hands. Predictably, the largest S.D.I. contracts have gone to the giants of the aerospace industry. Heading the 1986 list is the Boeing Compa-

ny, with contracts totaling $131 million. Other top S.D.I. contractors include TRW Inc., $61 million; Hughes Aircraft Company, $40 million; Lockheed Missiles and Space Company, $25 million; Rockwell International Corporation, $24 million; and the Raytheon Company, $17 million. But Star Wars funds are also earmarked for a wide range of small businesses, government laboratories and agencies (including the Central Intelligence Agency), and academic institutions.

The economic impact of S.D.I. money is ubiquitous and potent. A Stamford, Conn., market research concern, Business Communications Company, has estimated that the commercialization of Star Wars technology will eventually yield private-sector sales ranging between $5 trillion and $20 trillion. The financial inducement for a company to participate in S.D.I. research is so great, in fact, that the S.D.I.O. receives 10 times as many proposals as it can pay for.

Private entrepreneurs can exploit a wide range of inventions and discoveries that grow out of government-sponsored research, and Star Wars technologies are no exception. But the commercial licensing of government processes or inventions is a complex system that sometimes imposes burdensome practical problems. A government agency may be unwilling to grant exclusive long-term rights to the use of an invention or process, for instance, thereby depriving prospective commercial licensees of a competitive edge.

The secrecy of such sensitive military projects also poses a potential problem for the transfer of technology from S.D.I. research to the private sector, but General Abrahamson minimizes its long-term importance: "Of course there are technologies in S.D.I. that are vital to our national interests and are classified top secret. However, you'd be amazed how much of our work in nonclassified or only moderately classified. Our secrecy classification system, like the proposed missile defense itself, is organized in layers, and our policy is to permit the maximum freedom of communication consistent with the national interest. That policy shouldn't pose a real problem for anyone."

"I am determined," General Abrahamson said, "that we not miss the opportunity to capitalize on the results of S.D.I. research and apply it across all facets of our economy and society."

The combination of a thick wallet and a gambler's quest for dramatic gains has already led S.D.I. researchers to discoveries with important implications for fields largely unrelated to strategic defense.

Perhaps the most significant of these areas is conventional warfare, where rail guns and other new "hypervelocity weapons" promise to transform the kind of continental-scale armored combat for which the Soviet and American armies have been girding themselves since World War II.

Both the Pentagon and the Kremlin believe that in future land wars, tanks and armored personnel carriers will decide the outcome of battles. Consequently, both sides press their munitions makers to design ever more lethal projectiles, and sturdier forms of armor to stop the enemy's shells, bullets and rockets.

To defeat the next generation of tough-skinned Soviet tanks, Army planners believe, an entirely new class of weapons might be needed: weapons as superior to today's powder-burning guns and rockets as the 15th-century harquebus was to even the best crossbow of the day. And thanks to the Strategic Defense Initiative, the electromagnetic rail gun may provide American armored vehicles with just such a weapon.

In contrast to traditional rockets and shells, which are propelled by expanding gases, the acceleration achieved by a rail gun is not limited by the speed of sound; given enough energy, a rail gun can accelerate objects to speeds comparable to those of meteors. In principle, a rail gun standing on the ground could bombard targets on the moon. A rail-gun projectile might even be made to hit a target hard enough to initiate nuclear fusion—a fact noted by scientists seeking to develop fusion energy as an alternative to the fission process that is used to generate electricity in today's nuclear power plants.

Many government organizations have explored the possibilities of the rail gun. But both financing and research coordination were lacking until the Strategic Defense Initiative Organization stepped in.

Among the technologists responsible was Jon Farber, a division chief with the Defense Nuclear Agency in Alexandria, Va. Mr. Farber has devoted much of his career to the building of machines that mimic the destructive pulses of electromagnetic energy emitted by nuclear explosions. Like many kinds of Star Wars weaponry, these testing machines require gigantic pulses of power.

"I realized," Mr. Farber recalled, "that the greatest possibility for quick progress toward an anti-missile weapon lay in the rail gun, and I predicted that by working on rail guns we could accelerate all our S.D.I. programs, reducing development times by six to eight years."

Essentially, a rail gun is an electric motor, in which two metal rails running the length of the gun barrel are the main stationary elements and the projectile itself is the moving part. When a massive electric current is made to flow between the rails via an armature at the back of the projectile, the flow generates an electromagnetic force that drives the projectile forward.

One of the main problems with such a weapon is providing it with a suitable supply of electric power. Not only must the source yield a gigantic pulse of power for each shot, but it must recharge fast enough to maintain a reasonable rate of fire.

Ignoring bureaucratic boundaries, Mr. Farber broached his ideas directly to the S.D.I.O. "To establish my bona fides, I offered to lend them a power supply of the kind we use in our simulated nuclear explosions," he said. "They agreed, and starting in March last year, the S.D.I. people agreed to share costs with us in the building of a capacitor-powered rail gun. Only nine months later we were able to fire the first demonstration shot. We blasted a little plastic cube right through a thick metal plate, and the resulting hole was impressive enough to convince even stubborn skeptics."

Since then, researchers have devoted their efforts to reducing the size of the containers needed to contain the electric power for the rail gun. Within a few years, Mr. Farber predicts, high-power capacitors charged by generators of various kinds will be small enough to fit not only into orbiting space stations, but inside tanks and other fighting vehicles.

"At present we are substantially outnumbered and outgunned by Soviet tanks, whose big guns can open fire before ours come into range," Mr. Farber said. "Rail guns could reverse that situation and change the balance of land forces in our favor."

Another key area of Star Wars development is the interface between computer science and applied physics, in which researchers are confronting the need to process extraordinary amounts of information in the shortest possible time. Future large-scale conflicts, whether in space, in the atmosphere, on the ground or at sea, are expected to unfold too quickly for even the most efficient consortium of human minds to control without massive computer assistance. A reliable, lightning-fast system for planning battles is therefore regarded as vital both to a defense against ballistic missiles and to the conduct of war on the earth's surface.

Part of the challenge lies in the realm of applied physics. Physicists are following several routes toward speeding up the microscopic switches that operate logic gates—the components of semiconducting chips that enable computers to calculate. The opening or closing of a switch determines whether its gate is to register a zero or a one—the binary numbers used for all computations.

Contractors working for S.D.I. or related defense technology projects are working on an entirely new type of computer switch: one that operates optically rather than electronically. An optical switch would be used to transmit or block a beam of light rather than an electric current, and thus benefit from the enormous speed at which light travels. The switch itself could be actuated by light signals; matching pulses of light applied to opposite sides of the switch would open it, and mismatching pulses would close it.

A remarkable new material being developed for both optical and electronic computer switching is a synthetic crystal, gallium arsenide, and substantial S.D.I. funds have been appropriated for pushing its development. Gallium arsenide transmits electrons several times faster than does the silicon used in conventional chips, and can also function as an optical switch.

Another potential optical switch that has attracted official interest is a plastic called polydiacetylene, under development at General Telephone and Electronics Laboratories Inc., of Waltham, Mass. According to Dr. Mrinal Thakur, a senior member of G.T.E.'s technical staff, an optical switch based on polydiacetylene could handle up to one trillion operations per second; a conventional silicon switch can manage only about one-thousandth as many in the same time. Optical switches, moreover, would be highly resistant to electronic pulses from nuclear explosions that would disable ordinary chips.

Computer experts working on projects related to S.D.I. are also streamlining problem-solving hardware and procedures. One of their approaches is to break up a complex problem into many small elements that can be solved simultaneously and then be rapidly reassembled to yield the required result. This technique of "parallel processing" is a feature of such advanced machines as the Warp, a new supercomputer developed at Carnegie Mellon University, and the Connection Machine, a product of Thinking Machines Inc. According to the Defense Advanced Research Projects Agency, which paid for its development, the latter machine recently took only three minutes to complete a computation over which a powerful International Business Machines Corporation mainframe computer had had to labor for six hours.

The computers and programs S.D.I. is helping to bring into being are powerful tools whose civilian counterparts will have incalculable scientific value, experts say. These machines might be used for long-term weather forecasting, for example, and

for creating reliable mathematical models of the atmosphere and the oceans. Environmentalists regard such models as essential in making accurate estimates of the effects of human activities on climate.

Several strategic defense projects seek to use the computer as an adjunct to the human brain, and the out-come of this work in such "expert systems" is applicable to conventional battlefields and civilian needs as well. Two of the latest Defense Advanced Research Projects Agency's computer projects for the Navy not only organize and assess mountains of information but also make recommendations to fleet commanders for solving specific tactical and strategic problems. The machine intelligence behind such recommendations is compounded by its designers from the knowledge of many human experts, and the computer program is capable of adding to its knowledge from its own problem-solving experiences.

Similar programs, many of which are independent of S.D.I but have benefited from its discoveries, have begun to help physicians diagnose patients and to assist plant managers in spotting problems in production, inventories and quality control.

Computer pattern recognition is another field of great interest to S.D.I. and other defense agencies. A computer capable of recognizing and interpreting patterns can guide a missile equipped with a television eye, singling out the pattern of a target from a background of clutter.

Missiles are not the only beneficiaries of this work. Related computing ability is at the heart of the advanced research agency's Autonomous Land Vehicle, an eight-wheeled driverless truck from which it is hoped a robot fighting vehicle will evolve. Although their capabilities are still quite limited, such robots may foreshadow not only the advent of mechanical soldiers but of surrogate servants, laborers and bodyguards—the creatures of science fiction.

In many areas, S.D.I. funds have played an important role not in fostering new projects, but rescuing or reviving old ones. One significant example has been the Nova laser, completed last year at Lawrence Livermore National Laboratory, in Livermore, Calif., at a cost of $187 million and 8 years' construction time. The world's most powerful laser, Nova is yielding experimental data that may contribute both to a beam defense against missiles and to the generation of electric power by hydrogen fusion.

Nova, which fills one of the largest buildings in Livermore's sprawling laboratory compound, was financed by the Department of Energy as a fusion power experiment. The object was to concentrate the combined beams of Nova's many lasers on a pin-head-size target, the implosion of which would initiate fusion in the target's hydrogen core.

But during the last three years, as financing for many fusion experiments has dwindled almost to the vanishing point, defense scientists began using Nova for another purpose: the production and testing of very short-wave-length beams, including X-ray lasers—a type of laser that many experts believe would be peculiarly effective against missiles.

That Nova is being kept active, for whatever purpose, is a source of satisfaction to fusion power advocates. "The present oil glut will be short-lived, and when the crunch comes the energy shortage is likely to be devastating," an engineer at the Electric Power Research Institute said. "Fusion may be our salvation, and Nova may be the route to fusion. If Star Wars keeps Nova alive, it's all to the good."

Besides lasers, beams of charged and neutral particles are under study as possible directed-energy weapons, and these, too, are expected to find civilian applications. The Department of Energy has sponsored experiments using electron beams for sterilizing food and for removing pollutants from industrial smokestack emissions, for instance. Electron beams developed for killing enemy missiles may also serve mankind by fighting cancer.

The S.D.I.O. is very interested in a potential weapon called the free-electron laser," said Dr. James A. Ionson, a 36-year-old astro-physicist who is in charge of selecting many S.D.I.O. research projects. "And the work that has gone into it shows considerable promise for cancer therapy."

By manipulating a beam of electrons produced by a charged-particle accelerator, researchers have found they are able to "tune" the wavelength, or color, of the resulting beam. Such tuning helps scientists create beams with the short wavelengths deemed effective against missiles, and may also provide the key to a potential new cancer therapy, Dr. Ionson said.

"Electron beams can penetrate tissue to any desired depth, and the depth is determined by the energy of the beam," he said. "An electron beam has very little effect on the tissue through which it merely passes. But when it reaches its penetration depth, it releases most of its energy at that spot. Consequently, a precisely tuned electron beam could be used to hit a maliganant tumor with pinpoint accuracy without damaging the surrounding tissue. The technique might be especially valuable in brain surgery."

Many industries and government researchers are quite comfortable with Star Wars, but the S.D.I.O.'s relations with the nation's academic community is ambiguous. Educators have raised moral and political as well as scientific objections to the attempt to build a missile defense, and many believe it cannot succeed, however much money is pumped into the effort.

Both the Union of Concerned Scientists and the Federation of American Scientists have denounced S.D.I., and some 6,500 scientists and scientific educators have signed petitions pledging not to accept S.D.I. funds.

Still, negative opinions about the strategic merits of the President's program can often be separated from attitudes regarding the broader benefits of S.D.I.-related research. According to a survey conducted last spring by Peter D. Hart Research Associates Inc., two thirds of 549 American physicists polled expressed doubts that S.D.I. could ever defend the entire population of the nation against ballistic missiles, and 62 percent declared themselves opposed to deploying a Star Wars defense.

But despite their general opposition to the development of actual S.D.I. weapons, many American physicists saw merit in the basic research involved; the Hart poll revealed that 77 percent of physicists supported basic Star Wars laboratory research and 21 percent opposed it.

To counter the anti-Star Wars lobbying of several professional organizations, scientists favoring S.D.I. research recently organized the Science and Engineering Committee for a Secure World. Among the group's members is Dr. Martin I. Hoffert, chairman of the department of applied sciences at New York University, who describes himself as a political liberal and an opponent of nuclear arms. "When I first heard of S.D.I., I had no real interest in it," he said. "But I was interested in almost any opportunity for ridding the world of nuclear weapons, and I came to believe that S.D.I. might give us a chance."

Some two dozen major educational institutions are now receiving S.D.I. funds, among them the University of California (Los Angeles and Berkeley), the Massachusetts Institute of Technology and Johns Hopkins University. Besides these, many colleges and universities are recipients of second-hand Star Wars money transmitted through various prime contractors.

Highly qualified physicists are sometimes drawn to Star Wars projects by an inducement at least as potent as remuneration: access to the laboratories, equipment and staffs that can take on research programs far beyond the financial reach of even the richest university.

The cumulative impact of such an influx of funds and assistance on the broader course of American science will, of course, be impossible to measure for many years. Bur scientists and technical experts both inside and outside the strategic defense program agree that the systems, materials and devices brought into being in the name of S.D.I. will leave a profound legacy. One defense physicist (who asked to remain unidentified) put it this way:

"Some say we've made Faustian deals with the Devil, and there's an element of truth in it, if you happen to look at national defense as the Devil, which I do not. I'm being paid to work in a lab that's more exciting than a toy store. I'm given all the fancy hardware I need for my work, which has to do with very short-wavelength lasers. Do you realize what magnificent scientific tools such lasers will one day give us? We could use them to make holographic movies of the interaction of molecules in living cells, catalyzing the whole field of cancer research. X-ray or gamma-ray lasers will help us understand the nature of life at its most basic level.

"Sure, we're working on weapons, and we hope they'll be very good weapons. But the biggest payoff for many of us is the thrill of personal scientific achievement—achievement that in many cases would be impossible without Star Wars tools."

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive formal notification of proposed arms sales under that act in excess of $50 million, or in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notification I have received. The classified annex referred to in the covering letter is available to Senators in the office of the Foreign Relations Committee, room SD-423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, September 17, 1986.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-39 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter(s) of Offer to the Netherlands for defense articles and services estimated to cost $26 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

GLENN A. RUDD,
Acting Director.

[Transmittal No. 86-39]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Netherlands.

(ii) Total estimated value: Major Defense equipment, $23 million;[1] other, $3 million; Total, $26 million.

(iii) Description of articles or services offered: Ninety-nine MK 46 torpedoes in containers, torpedo spares, and technical and engineering support.

(iv) Military Department: Navy (AEQ).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the Defense articles or Defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: 17 September 1986.

POLICY JUSTIFICATION

NETHERLANDS—MK 46 TORPEDOES

The Government of the Netherlands has requested the purchase of 99 MK 46 torpedoes in containers, torpedo spares, and technical and engineering support. The estimated cost is $26 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of the Netherlands; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

The Government of the Netherlands plans to install these torpedoes on its new "M" class frigates. These torpedoes will improve their anti-submarine warfare capabilities. The Netherlands will have no difficulty absorbing these torpedoes into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Honeywell Incorporated, Defense Systems Division, of Hopkins, Minnesota.

Implementation of this sale will not require assignment to the Netherlands of any additional U.S. Government personnel or contractor representatives.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

[1] As defined in Section 47(6) of the Arms Export Control Act.

ADULT LITERACY AWARENESS MONTH

● Mr. QUAYLE. Mr. President, through the passage of Senate Joint Resolution 358, the month of September has been officially designated as "Adult Literacy Awareness Month." As a member of the Senate Labor and Human Resources Subcommittee on Education and as a cosponsor of the resolution, I believe this is, therefore, an opportune moment to reflect on literacy in our society, or to focus on its absence.

Researchers estimate that as many as 27 million adult Americans lack basic reading, writing, and comprehensive skills; they are functionally illiterate. Another 35 million are classified as semiliterate, and the numbers are growing. If one counts both categories, approximately 62 million adult Americans—or slightly more than one-third of the adult population—are functionally impaired and unable to make significant progress in their lives.

It is even more sobering to learn that the total is not likely to diminish under present circumstances. Various sources estimate that the number of people now in remedial training is anywhere from 3.5 to 4 million. Most of these—2.6 million—are being served in localities across the country through the Adult Basic Education [ABE] Program of the Department of Education, the remainder through a wide variety of smaller programs, both public and private. The dropout rate in these programs, however, can approach 40 percent. Thus, less than one-half of the 3.5 to 4 million in training will move out of the pool of illiterates in any given year. Meanwhile, various sources estimate that from 1.5 to 2.3 million new illiterates are being added to the pool each year. Put simply, the number of illiterates currently receiving help is miniscule compared to the scale of the need.

Illiteracy is not confined to any one economic level, to any one region of the country, or to any one ethnic or racial group. It is widely dispersed throughout the country, a problem in every community. To be sure, researchers have established a high incidence of illiteracy in economically disadvantaged groups. It would be erroneous, however, to think that the problem stops here.

Illiteracy is a fundamental problem in the sense that it is a contributing cause to many social and economic problems. Researchers have established a high correlation between illiteracy and unemployment, poverty, substandard job performance, welfare, and crime. For example, studies indicate that as much as 80 percent of our prison population is illiterate.

Lasting repercussions from the high incidence of illiteracy are clearly of a different order. The contention remains that it weakens America's defense posture because our recruiting base is affected. It also affects this country's ability to compete in foreign trade and is but one explanation for poor voter turnout and lack of participation in civic affairs.

The private and public sectors must form a coalition and embark on an anti-illiteracy program. This campaign must heighten awareness of the problem and mobilize efforts to provide help for illiterates within our communities. More specifically, this can be implemented through the aid and support of local civic, religious, literacy, and other educational organizations. No problem is more threatening to the public interest than illiteracy. At this time, cooperation is of immense significance and promise.

Four major national literacy efforts are currently in operation. As I mentioned before, Adult Basic Education is a program under the auspices of the Federal Government. A second is the U.S. military program of remediation for its own recruits. Two other privately supported programs exist, the Laubach Literacy Action serving approximately 50,000 people and Literacy Volunteers of America [LVA] serving 20,000. Corporations also provide in-service literacy help for some employees and many sponsor community literacy programs using their employees as tutors.

Additionally, in conjunction with Adult Literacy Awareness Month, Capital Cities/American Broadcasting Companies, Inc. [ABC] and the Public Broadcasting Service [PBS] have launched an unprecedented national collaboration entitled Project Literacy United States [PLUS]. This campaign against illiteracy consists of a wide range of national network broadcasts and community activities designed to raise awareness nationally and generate methods of dealing with the problems at the local level. Television stations nationwide will coordinate efforts and establish a literacy task force in each community. To date, 320 task forces have been formed.

I am pleased to note that an Indiana constituent, Ed Metcalfe, president and general manager of ABC affiliate WPTA-TV in Fort Wayne, has been actively concerned and instrumental in such endeavors. Due largely to his efforts, adult illiteracy is a public affairs priority for WPTA-TV. Metcalfe is one of a number of ABC affiliate executives who first brought this subject to the attention of ABC, and he is one of the prime forces behind PLUS.

Television and radio are often the only form of communication that can reach illiterates consistently on a large scale; it is important that they continue to do so as best they can. The combination of national media exposure and local community efforts will help the millions of adult illiterates to rec-

ognize their lack of strong reading and writing skills and become motivated toward improving them.

The problem of illiteracy is not one we were instrumental in creating, but by virtue of our malign neglect, as leaders and community members, we have for too long demonstrated a willingness to perpetuate this form of societal indifference and injustice. Do we possess the character and courage to tackle a problem which so many nations—nations much poorer than our own—have taken the initiative to forthrightly address? Our credibility as a free society and democracy is in question, particularly since roughly one-third of adult America is excluded from due democratic process and the ordinary commerce of our print society.

The chance of success for whole generations has been badly compromised by illiteracy. As leaders and concerned community members we are the privileged, empowered, and morally compelled to reverse this growing trend of illiteracy in America.●

BEYOND SALT: ARMS CONTROL BUILT UPON DEFENSES

● Mr. GOLDWATER. Mr. President, few issues command more attention in this body than those involving arms control. Today, this Nation is at a critical juncture in the arms control process. The formulas of the past have failed to meet the expectations of many people by constraining the nuclear arms competition. Perhaps more dangerously from our perspective, these formulas have failed to enhance stability by reducing the Soviet first-strike capability. Moreover, as the record of Soviet violations indicates, past arms control formulas have failed to discourage cheating, and have provided no satisfactory means to resolve these violations.

It is against this background that Our colleague from Indiana, Senator QUAYLE, has written a thoughtful and provocative article in the Summer 1986 issue of Strategic Review. His principal premise—and one that I share—is that our arms control policies must recognize the central contribution that strategic defenses can make to our deterrent posture. Strategic defenses not only offer important military capabilities, but they can also contribute in a significant way to the achievement of the objectives that we all seek in arms reduction negotiations.

Mr. President, I ask that the full text of Senator QUAYLE's article be printed in the RECORD following these remarks. Senator QUAYLE had developed a considerable expertise in the areas of strategic forces and arms control during his tenure on the Armed Services Committee, and I commend his article to the attention of my colleagues.

The article follows:

BEYOND SALT: ARMS CONTROL BUILT UPON DEFENSES

(Dan Quayle)

(The Author: Elected to the U.S. Senate in 1980, Senator Quayle (R-Ind.) has particularly distinguished himself in the deliberations of that body in the realms of defense procurement, Senate reform, job training and education. A member of the Senate Armed Services Committee, Senator Quayle in March 1985 was named Chairman of the newly established Subcommittee on Defense Acquisition Policy. Prior to his election to the Senate, he had served two terms in the House of Representatives.)

IN BRIEF

Even a formal demise of SALT may not guard against a repetition of its mistakes, captivated as arms control thinking in the United States has become by the assumptions of Mutual Assured Destruction. Especially in light of the lessons of SALT, a new arms control approach, to be viable, will have to be guided by four criteria. First, it must proceed from the principle and fact of defenses, rather than the past preoccupation with limitations on offensive forces. Second, it must be aimed at preventing first-strike postures and incentives. Third, agreements must be cast in order to encourage compliance and discourage cheating. Finally, they should be designed to facilitate offensive arms reductions through enhanced weapons survivability and improved command and control. The overriding objective, however, must be to harness the arms control process to the logic of strategic defenses in the nuclear age.

If living in the past deprives one of a decent future, the current debate over adherence to SALT is doubly threatening. Not only might this dispute be decided in favor of our persisting in an arms control vision that has failed but, more important, even its demise might not prevent a possible replay of its errors. The reason is simple: For the last two decades, SALT and its faith in Mutual Assured Destruction (MAD) have been what arms control has been all about.

Yet, it is precisely because of this identification, as well as continued public interest in pursuing arms negotiations, that there is a need to establish new criteria for arms control. These criteria, which themselves reflect on the critical failures of SALT, are the following:

1. Establish a clear focus on the effect of defenses (and not merely offensive forces) on the military balance.

2. Reduce incentives for first-strike postures.

3. Discourage cheating.

4. Encourage arms reductions through the enhancement of weapons survivability and command and control.

MAD AND THE U.S. DEFENSE MYOPIA

The first criterion is overriding. Indeed, failure to consider the effect which deployed defenses exert on the strategic balance was SALT's fatal flaw—one which underlay all its other failings.

A key premise behind SALT was that neither side would acquire significant strategic defenses once arms control was agreed to. These constraints on defenses were critical in U.S. negotiators' eyes to assure that both superpowers remained vulnerable to attack. With such vulnerability assured, they reasoned, neither side would feel compelled to build more and more weapons. Instead, equal limits on offensive arms could be agreed to, and these limits could then be lowered in future arms agreements.

On the same day the SALT I Agreement on Offensive Forces was signed in 1972, the ABM Treaty was signed as well. In fact, these arms limitations represented two sides of the same coin. As Henry Kissinger explained at the time:

By setting a limit to ABM defenses the treaty not only eliminates one area of potentially dangerous defensive competition, but it reduces the incentive for continuing deployment of offensive systems. As long as it lasts, offensive missile forces have, in effect, a free ride to their targets.

The goal was to assure both sides the ability to answer any nuclear attack with an unacceptably destructive reply. Such Mutual Assured Destruction (MAD) would be accomplished by two steps. First, strategic defenses would be constrained so that even a small number of missiles surviving an attack could be certain of penetrating to the attacker's territory and inflicting massive damage. Second, offensive weapons would be reduced so that there would be too few to destroy many military targets but more than enough to wipe out most of the opponent's cities.

By this logic, the ABM Treaty was paired with the SALT I Agreement on Offensive Forces. Later followed a negotiated protocol to the ABM Treaty which reduced the number of ABM sites permitted to both sides from two to one. Finally SALT II was negotiated and signed, but never ratified by the U.S. Senate.

In theory, all of this seemed to make sense. There were but two problems. First, the Soviets never accepted MAD—in fact, one can speculate that they probably believed all along that the concept was accurately described by its acronym. Second, they entered the ABM Treaty not because they disbelieved in the viability and value of strategic defenses in the missile age—let alone were willing to foresake pursuit of such defenses—but on the assumption that the treaty would give them an ultimate edge in that arena.

The U.S. decisionmakers at the time refused to recognize Soviet motivations and intentions, but they should have come as no surprise. In 1967, just prior to the SALT I talks, Soviet Prime Minister Aleksei Kosygin made it clear that the Soviet Union intended to protect itself against strategic attacks. In retrospect, his statements in February and June of that year came close to the language used sixteen years later by President Reagan in his summons to a Strategic Defense Initiative. Kosygin argued:

. . . A defensive system, which prevents attack, is not a cause of the arms race but represents a factor preventing the death of people.

. . . If, instead of building and deploying an anti-ballistic missile system, the money is used to build up offensive missile systems, mankind will not stand to gain anything. It will, on the contrary, face a still greater menace and will come still closer to war.

Beyond these elementary considerations, however, the Soviets saw in strategic defenses the road to enhanced Soviet military power. Three years before the SALT talks, Major Genral Nikolai Talensky had explained that "the creation of an effective anti-missile system enables the state to make its defenses dependent chiefly on its own possibilities, and not only on mutual

deterrence—that is, on the goodwill of the other side." This point was made even more explicitly in the Soviet General Staff journal, Military Thought, where, in a featured article in 1967, it was argued that "a most important factor which makes it possible to accomplish the task of changing the correlation of forces in one's own favor is anti-air defense (anti-missile and anti-space)."

The Soviets, of course signed the ABM Treaty. They did so, however, not because they subscribed to MAD, but because they calculated that the treaty would have the effect of slowing U.S. ABM efforts far more significantly than constraining their own efforts. They knew that their ABM program in the late 1960s lagged behind U.S. ABM advances by some fifteen years. They saw the treaty as giving them the cushion of time to catch up, recognizing that in the meantime, even under the treaty's constraints, they could continue to deploy an ABM system around Moscow, as well as air defenses, a civil defense program, and passive defensive measures such as the hardening of of command bunkers and missile silos.

The Soviet's motives are beyond speculation. In 1967 and 1968 published Soviet military analyses conceded that Soviet ballistic missile defense capabilities were practically nil, while the Nike-X ABM system under development in the United States, once deployed, could dramatically change the "correlation of forces" in the U.S. favor. Nor did the Soviets go to great pains to hide their intentions in the negotiations process. Coincident with the ABM Treaty's ratification, Minister of Defense Marshal Andrei Grechko made a point of noting that it "imposes no limitation on the performance of research and experimental work aimed at resolving the problem of defending the country against nuclear missile attack.

After 1972 Soviet investment in strategic defenses continued apace—to the point where, by the early 1980s, it probably exceeded their expenditures for offensive strategic arms. Whereas in the 1960s the comparative allocation to ballistic missile defense development in the United States and the Soviet Union came to an estimated 2-to-1 in America's favor, by 1980 that ratio had shifted to roughly 5-to-1 in favor of the Soviets.

Finally, although the Soviets said less about the role of strategic defenses after the signing of the ABM Treaty, what they did say was disturbingly clear. In 1976, for example, Marshal G.V. Zimin, Chief of the Military Academy of the PVO Strany (a separate military service dedicated to providing strategic defense) wrote as follows:

. . . Now victory or defeat in war has become dependent on how much the state is in a position to reliably defend the important objects on its territory from the destruction of strikes from air or space.

The enormous destructive power of nuclear warheads raises the necessity of destroying all targets without exception, which accomplish a breakthrough into the interior of the country from air or space.

All of these conditions put before the air defense complex and responsible tasks, the resolution of which will be determined by the ability to repulse strikes not only of aerodynamic but also of ballistic means of attack.

The Soviets, then, never accepted the concept of mutual deterrence through mutual vulnerability. Their rejection, however, never applied a brake to the continued pursuit of that theory by the United States. Whereas the Soviets deployed extensvie strategic air defenses, we dismantled ours. Whereas they developed and deployed two separate generations of ABM systems, we dismantled our first and only system. Whereas they developed anti-tactical missile systems, such as the SA-10 and SA-12, capable against some U.S. strategic ballistic missiles, we cancelled our original plans to give U.S. anti-aircraft missile systems such capabilities. Finally, while they continued to harden their military assets and to train their population in civil defense, the United States stopped all substantial hardening of its silos by the early 1970s and virtually abandoned its civil defense program.

Added to the absurdity of this asymmetry was the continued U.S. faith in pursuing equal limits on offensive arms under SALT. While the Soviets deployed several thousands air-defense interceptor planes, nearly 10,000 air-defense radars, and over 10,000 surface-to-air missile-launchers—and U.S. air defenses became virtually nonexistent—the United States nevertheless bargained in SALT II for equal sublimits on heavy bombers and air-launched cruise missile carriers. We also saw merit in equal sublimits on MIRVed submarine ballistic missile launchers and MIRVed land-based ballistic missiles—even though, again, the United States had virtually no active defenses against these weapons, while the Soviets either deployed or were developing extensive active and passive defenses.

By our ignoring, or wishing away, the impact of deployed defenses on the military balance, these "equal" SALT limits were anything but equal in their effect. Consider SALT's equal sublimits on slow, second-strike weapons such as bombers and cruise missiles. Given the Soviets' superior air defenses, all the equal limits accomplished was to exaggerate existing asymmetries.

In order for this pitfall to be averted in the future, defenses must be integrally factored into proposed arms control limits. We should make it axiomatic that the number of offensive systems of a given type on either side be tied to the level of defenses deployed against them. Especially since U.S. defenses are weak or nonexistent, arms limitations undertaken for the sake of "balance" and "stability" should be designed to permit the strengthening of defenses rather than the bolstering of offensive forces on either side.

The Soviets recognize only too keenly the military value of defenses. It is critical that we recognize that value as well, and that we convey to the Soviets very bluntly that arms reductions in the future will be dependent upon our deployment of defenses. If we really want to see offensive arms reduced and to deny the Soviets confidence in their first-strike capabilities, then capable defenses are in *sine qua non* both for secure force postures and for sensible arms limitations.

THE CRITERION OF PREVENTING FIRST-STRIKE

This, then, brings us to the second criterion: that arms agreements should reduce the likelihood of war—or, conversely, that they should not permit leeway for either side to aspire to a first-strike posture. SALT clearly failed this criterion. That it did, however, was itself largely due to the casual approach to defenses.

As was noted, Kissinger believed that, with the limits imposed on ballistic missile defenses, the incentive for continued deployment of offensive systems would be reduced, since they would enjoy "a free ride to their targets." SALT I was seen as the first step in this offensive arms limitation process. It basically froze the number of ballistic missile launchers at 1972 levels.

SALT II thereupon was supposed to plow real reductions into those offensive forces. As the U.S. SALT negotiator Gerard Smith explained: "I think they [the Soviets] are interested in getting a more definitive missile limitation than at present. . . . I have reason—I have hope that they will reduce the numbers and, perhaps, enter into some sort of qualitative limitations affecting size, yes, throw-weight." As in the case of U.S. hopes concerning strategic defenses, however, the Soviets did not accommodate. Instead they strove to expand their military advantage.

The United States tried in SALT II to apply limitations to more than just missile-launchers. Thus, for example, the U.S. hoped for a curtailment of heavy missiles. Yet, the Soviets resisted, and with good reason. In 1972, when the SALT I Agreement basically froze the number of missile-launcher forces on both sides, the Soviets commanded a strategic force of missiles much heavier than those deployed by the United States, but almost entirely consisting of single-warhead systems. They knew that, with SALT limits focused primarily on launchers, they could multiply their capability by MIRVing their heavy missiles.

In 1972, the Soviet Union possessed no more than 1,500 warheads on their land-based missiles forces. Today that number is approximately 6,500 warheads—almost all highly accurate, hard-target "silo-busters." The ICBM warhead inventory of the United States meanwhile has remained static. The reasons for this disparity are clear in retrospect. First, U.S. policymakers felt that additional warhead limits were not needed because sooner or later the Soviets would embrace the wisdom of MAD, stop their build-up of offensive systems and seek reductions. The second reason was physical: the United States could not aim at substantial increases in its stockpile of warheads because by 1979 the U.S. force consisted of much smaller missiles that already were highly fractionated.

In 1972 there were approximately 2,000 ICBM warheads in the U.S. inventory. Today the number is virtually the same. Meanwhile, however, within the SALT "constraints" the Soviets have amassed a ratio of over five prompt ICBM silo-busting warheads to every U.S. hard target, while the comparable U.S. warhead inventory cannot even match the number of Soviet missile silos.

Should we continue to adhere to SALT, this trend will only worsen. By 1990 the Soviets may be able almost to double their ballistic missile warhead inventory. By contrast the United States would have to reduce its inventory by at least 200 to allow for the replacement of old, highly fractionated missiles with newer, less fractionated ones—as, for example, in the substitution of Trident D-5 for Poseidon systems.

The Soviets did not "merely" accomplish first-strike advantages under SALT: they also managed to dampen the best U.S. means of retaliation. Specifically, in order to secure SALT II's limits on ballistic missiles, the United States yielded to Soviet pressure to restrict the one U.S. weapon system—long-range air-launched cruise missiles (ALCMs)—that is ideal for deterring a Soviet attack. ALCMs are slow. These are not first-strike weapons, but are best suited for retaliatory strikes. Moreover, if fitted with advanced guidance systems and conventional warheads, they can be substituted

for nuclear weapons in important missions. Most significant, the more ALCMs are deployed by the United States, the more the Soviets must invest in air defenses at the expense of offensive weapons capable of striking the United States or its allies. Undoubtedly it was in light of these considerations that the Soviets demanded that SALT severely limit ALCM-carrying bombers. The consequence is that, under SALT II, of the U.S. force of 257 bombers only 120 are permitted to carry long-range ALCMs. For every bomber beyond that number to be fitted with ALCMs, the United States would have to eliminate one multi-warheaded ballistic missile launcher.

"Limits" that encourage a disadvantageous competition in first-strike weapons, and that repress our competitive advantage in second-strike weapons systems, only increase the Soviets' incentive to threaten attack. This is the last thing than any arms agreement should do. Future negotiations must be aimed at redressing this horrendous legacy of SALT by focusing reductions and constraints on prompt, hard-target weapons systems, while even loosening the limits on such second-strike systems as ALCMs. At the very minimum, the dangerous yardstick of missile-launchers must be replaced by more meaningful denominators and incentives of "balance."

THE CRITERION OF COMPLIANCE

This brings us to the third criterion—that agreements be designed to encourage compliance and to deter cheating. Probably more had been said about the failure of SALT in this respect than any other. Yet, all too few commentors have linked this failure to the MAD assumptions concerning the prohibition of defenses and the inevitability of offensive reductions.

The linkage is significant. Because it was hoped that restrictions on defense would lower incentives on both sides to build more offensive systems, the assumption took hold that the precise number of offensive systems available to either side would not really matter—that eventually those systems would be scaled down. As Kissinger explained, with ABM limits in place, each side would be so open to attack that "beyond a certain level of sufficiency, differences in [offensive systems] numbers are therefore not conclusive."

This perspective spilled into the language of the SALT agreements themselves. Although detailed restrictions of the number, size and payload of missiles on both sides would have been preferable, it was deemed adequate to place limits on missile-launchers and to impose only vague restrictions on the quality and potency of the missiles themselves. After all, how well SALT protected against the development of modernized missiles did not seem important if the Soviets were assumed to have no incentive to produce them. What mattered more, in the context of verification, was a clear yardstick for measuring compliance—i.e., missile-launchers. Nearly every other SALT limit, in the face of Soviet resistance, was poorly defined.

Another consequence of this mindset was that the monitoring of SALT provisions beyond launcher limitations in effect became hostage to the Soviets' good faith. Simply by increasing telemetric encryption, for example, the Soviets were able to obstruct almost entirely the U.S. ability to verify their compliance with the SALT II restrictions on missile modernization.

Finally, there was a general presumption that the Soviets would recognize it to be in their best interest to comply with SALT. As a consequence, the only mechanism provided in SALT to deal with compliance problems was a Standing Consultative Commission. This commission could receive complaints, but had no power to resolve them. The only way compliance could be enforced in disputed cases was for the aggrieved party to threaten abrogation of the agreement or treaty itself.

SALT, then, combined the worst of all worlds with respect to the compliance factor. The presumption that compliance would obtain—or that, at least, violations would not matter heavily—was tragically mistaken. The Soviets did violate; the violations did make a difference in the strategic balance; and they proved difficult to challenge, let alone to redress.

In the future, arms control agreements must incorporate incentives for compliance stronger than incentives to violate. A partial answer, beyond more rigorous definitions of limits and restrictions, may lie in the principle of self-regulation implicit in "self-defense-zone" arrangements recently proposed for space. One might also try to tie explicitly the deployment of systems that can be detected to proof of the existence of other, less detectable systems or measures.

For any of these methods to be of much value, however, the agreement itself should be inherently tolerant of violation disputes. If violating the agreement would result in a significant increase in one or the other side's military power or a major diplomatic crisis, the agreement itself should be considered part of the problem. This again recommends the need for active and passive strategic defenses as a hedge against violations and possible treaty breakouts.

THE CRITERION OF INCENTIVES FOR REDUCTIONS

We now come to the last criterion: that arms agreements should encourage offensive arms reductions by enhancing weapons survivability and improved command and control.

SALT never addressed this criterion and actually worked to undermine it. It did so in two ways. First, the champions of SALT denigrated the entire notion that nuclear weapons be used to target the other side's weapons. They key to the "balance" to be fashioned by SALT was to be the recognition by both the United States and the Soviet Union that, irrespective of what either might undertake to attack the other, it could not preempt or prevent the opponent's ability to inflict retaliatory blows amounting to hundreds of millions of civilian casualties for the offender. Enhancing weapons survivability was virtually the last concern in SALT.

Second, because the compliance issue in SALT focused on missile-launchers, most of which could still be spotted and counted by "national technical means," a dim view was taken of mobile missile systems, which could not be thus monitored. Further deployments of Soviet mobile SS-16 missile-launchers were banned, as were deployments of long-range cruise missile before December 1981. MIRVed cruise missiles were prohibited altogether. As we have noted, severe limits were placed on numbers of air-launched cruise missile carriers, and specific provisions were drafted to make these carriers clearly distinguishable from ordinary bombers. Finally, a dual conventional-nuclear capability for ALCMs was discouraged by requiring all such systems to be counted as if they were nuclear.

Ultimately, none of these restrictions proved adequate, and it is doubtful whether they were worth the effort of drafting in the first place. Mobility, after all, imposes on the enemy an increase in the number of target-points at which he must aim. In terms of survivability, therefore, mobile missiles substitute for greater numbers of static missiles. It is thus elementary that mobility can serve the ends of arms reductions and should be encouraged within limits, notwithstanding the complications it may present to the verification process.

Moreover, mobile missile-launchers could help the transition to the primacy of strategic defenses in two ways. Not only could they justify reductions in offensive forces, but they could also help increase the effectiveness of early, active defense systems which are expected to be preferential—i.e., concentrated to protect a particular aim point in a manner unknown to the attacker, thereby compounding his uncertainty problem.

By the same token, improvements in command, control, communications and intelligence (C^3I) offer an even greater force multiplier than mobile missiles. The better and more survivable is command and control, the fewer the weapons that are needed to perform a given mission, and the lower are the risks of false alarms and accidental launch. Again, inasmuch as C^3I would constitute priority protection for strategic defenses, this emphasizes their role in underpinning reductions in offensive systems.

THE CRITERIA APPLIED TO CURRENT PROPOSALS

Giving due consideration to the effects of defenses on the military balance, reducing the Soviets' incentive to strike first, discouraging cheating and enhancing compliance, and encouraging arms reductions by improving weapons survivability and their command and control—these are the four criteria by which new arms control proposals should be judged. Do current U.S. proposals meet those criteria?

The answer, unfortunately, is uncertain. Both the INF and START proposals of the United States appear to be aimed, like SALT, at roughly equal levels in offensive systems, without due consideration of the superiority of Soviet passive and active defenses against theater and strategic systems. Both proposals call for deep cuts in offensive forces, but it is not clear that these reductions would reduce the likelihood of Soviet first-strike capabilities, given the Soviets' superior ability to defend against a Western retaliatory attack, as well as the number of U.S. targets that our proposals themselves would remove from the Soviet target lists.

Also, both proposals seem bare of any new methods to ensure compliance—even though with deep cuts the risks associated with violations or "breakout" rise commensurately. This concern is significant. The Soviets have designed their missile launchers to fire additional missiles, or "reloads." Precisely how many such "reloads" there might be deployed or in covert production is difficult to determine—and becomes a question of heightened concern with deeper arms reductions.

Similarly, the effectiveness of the Soviet nuclear force could be multiplied with improvements in accuracy that are virtually impossible to verify effectively or prevent. Instead of requiring three warheads to destroy every hard target, for example, with increased precision missile guidance the Soviets could reduce that requirement to two warheads, and ultimately to one. And they could accomplish this in many cases by

modernizing only the reentry vehicle, not the missile itself. Again, deep cuts in offensive launchers and warheads only increase the risks associated with not identifying these activities.

In the case of theater arms control, such verification problems are even more acute. The key reason is that not only intermediate-range Soviet SS-20 missiles and U.S. Pershing-2s and GLCMs are to be limited, but also shorter-range Soviet systems such as the SS-21, SS-22 and SS-23. Unlike the SS-20, these missiles are dual-capable, are assigned to Soviet military units much as artillery, require no prepared launch sites, and can be moved and refired within minutes.

Moreover, because these "shorter-range" missiles can potentially reach targets within ranges of up to 1,000 kilometers—and by the 1990s are expected to command accuracies of within 50 feet—it is quite likely that, armed with chemical and improved conventional warheads, they could destroy virtually all of NATO's key military assets that heretofore were assigned to nuclear warheads. The upshot of this is that even if an agreement were reached whereby the Soviets would dismantle their SS-20s, and they denuclearized their dual capable SS-21s, SS-22s and SS-23s, they could still effectively threaten virtually all important targets with these shorter-range systems.

In the case of U.S. proposals on strategic arms, serious consideration apparently has been given to the idea of purchasing Soviet offensive cuts in exchange for a U.S. pledge not to deploy defenses for a specified number of years. Rather then encouraging strategic defenses, this would have the effect of delaying, perhaps indefinitely, any U.S. defense deployments.

Finally, the U.S. strategic arms proposal would ban mobile missiles. This may make sense in the short term, since the United States does not yet have a mobile missile of strategic range and is experiencing difficulty in locating mobile Soviet system. Yet, in the longer run such a ban would foreclose any U.S. option of mobile missiles of its own. In this regard, the strict limit of 1,500 ALCMs contained in the U.S. proposal also may be contrary to our interests, for reasons that have been outlined above.

More generally the bitter lessons of the past must be pondered more carefully as we pursue arms control beyond SALT II. It would appear that whatever course we take will have to be based on defenses. Not only will we have to exploit active and passive defenses in our efforts to redress the military imbalance we currently face, but we may have to resign ourselves to arms agreements much more modest in scope than in the past.●

CONGRATULATIONS TO ROBERT WINER ON HIS 60TH BIRTHDAY

● Mr. LAUTENBERG. Mr. President, on September 29, Robert Winer, a close personal friend and longtime resident of Paterson, NJ, will celebrate his 60th birthday. Today I want to offer him my congratulations.

Besides our personal friendship, I offer special recognition to Bob Winer today because of the contributions he has made to Paterson, my birthplace, and to the State of New Jersey. Bob Winer believes deeply in our democratic system. He supports that commitment by maintaining the manufacturing and production of products in the United States despite the attraction of lower cost production overseas and the very seductive benefits of foreign credit assistance and facilities.

Mr. President, Winer Industries, has its national headquarters in Paterson, NJ, where Bob's father started the family business almost 50 years ago. His father came to these shores without knowing what was ahead. But he had a deep belief that America was the country in which he wanted to live and bring up his family. Winer Industries now employs more than 1,000 people from Paterson, NJ, to Tennessee and Arizona. Winer Industries is a company which exemplifies not only good business leadership, but community leadership as well. That is because Bob Winer made it his personal mission to train and employ those without the career choices higher education affords.

In cities across America, company after company has deserted the urban setting in which they started. But Bob Winer has resisted this temptation. Instead, he has created a modern facility, employing people in productive labor near their homes and families.

Winer Industries produces competitive, high quality products because the spirit of its employees and management combined leads to production of the best products in their price line that customers can buy. As a result, Winer Industries was selected as one of the 100 best suppliers of 12,000 that service Sears Roebuck & Co. This award brought credit to the company and its workers and reflects the determination of Bob Winer to continue the legacy his father left behind. His mission is to be competitive in his industry, but to treat his employees and customers fairly, and to reinvest in facilities and new products to continue the family dream.

All of us in New Jersey take pride in Bob Winer's accomplishments and business leadership and wish him continued good health, happiness and success. I am pleased to call him my friend.●

ABORTION AND INFORMED CONSENT: CONNECTICUT

● Mr. HUMPHREY. Three of the women who have written me have done so anonymously, and this letter from Connecticut is one of them. This young woman communicates with aching honesty the reality that the consequences of abortion are permanent. It is not a quick fix for an unplanned pregnancy. Everyone knows adoption and parenting are permanent. But abortion advocates attempt to make abortion appear to be an escape from the consequences of pregnancy. This deception has worn thin for many who have experienced the consequences of abortion.

The ruse is quite convincing on the surface. "The blob of tissue to be vacuumed out" has been ruled by the Supreme Court to be a non-person. Abortionists claim that the procedure is "safe and legal." Once the "products of conception" are removed from the mother the problem has been solved. Out of sight, our of mind!

Well, if this procedure is so safe and simple why am I getting all of these letters? If it is a solution suited to helping a woman avoid the permanent "complications" of pregnancy, why are these women so miserable? These are women with a wide diversity of economic, cultural, racial, educational and religious backgrounds. But they all agree on this one point: "Why didn't anybody tell me it would be like this?" Why is there so much grief, guilt and sadness among these women?

There are at least two reasons for these reactions, indicated by the women themselves. The first is that they are angry about proceeding to have an abortion without sufficient information regarding what they are doing. They feel demeaned and betrayed. The second is that they know they have destroyed far more than a blob of tissue. They have come to realize that they have killed their babies. I hope my colleagues will join me in cosponsoring S. 2791, in order to help women avoid making the same mistake over and over again in the future.

The letter follows:

July 29, 1986.

DEAR SENATOR HUMPHREY: I had my abortion almost five years ago when I was 19 and my boyfriend was 22. That "boyfriend" and I are now married. I found out I was pregnant on a Saturday afternoon and had the abortion the following Tuesday morning. Who can make an important decision rationally like that in two days? The people at the clinic never encouraged me to tell my parents or a clergy person even though they knew I wasn't married. I can so vividly remember the woman at the clinic pulling out her calendar book and scheduling me in as if it were a dentist or hair dressing appointment.

Our 20th century society neglects to inform women about the horrible side effects of an abortion. Thank God, I did not have any physical ones. No one ever explained to me that I would undergo so many emotional, psychological and mental aftereffects (By the way, I was chosen out of a third grade class of 30 students as the "most stable." I am now an electrical engineer—a graduate of a quite prestigious engineering college.) The people at the clinic never told me about the beginning of life, of a fetus forming. They just told me about "the blob of tissue to be vacuumed out." They never told me about the depression, anger, anxiety, fears, and self-hatred I could and would experience after abortion. They didn't tell me I would lose sleep and my appetite for weeks or be uneasy around babies, children, pregnant women and people in general, because I thought I was such a terrible person and was capable of hurting others. They never told me I would hate myself so much that I would actually have suicidal thoughts. They never told me I would seek

professional help to overcome my feelings of guilt and grief and be put on tranquilizers and anti-depressants. No one ever told me how broken my soul would be.

Although every woman's story is different, they are in so many ways the same. The major factors to overcome are guilt and grief. We are all sorry for what we have done, we have repented and we must forgive ourselves in order to carry on. The saddest thing for anyone affected by abortion (and this tragedy not only affects the woman, but all those touched by it—fathers, grandparents, etc.) is that it is irreversible. It is not as if we can punish ourselves a certain amount or advocate pro-life issues for X number of months and then our babies will be back. That isn't feasible. My husband and I would do anything to have our baby back.

Thank you for this opportunity.

ANONYMOUS,
Connecticut.●

GRAMM-RUDMAN-HOLLINGS

● Mr. MOYNIHAN. Mr. President, there are now 11 working days before the scheduled October 3 adjournment during which Congress must, among other things: pass reconciliation legislation that will reduce the deficit by about $15 billion; reach final agreement on all 13 appropriations bills; vote on the joint resolution incorporating the "sequester" report issued by OMB and CBO and reported by the Temporary Joint Committee on Deficit Reduction; and, raise the debt ceiling for fiscal year 1987.

The reconciliation bill was laid down last evening.

The bill would reduce the deficit some $3.7 billion; but, it is estimated that we need another $15 billion, or so, to reach a deficit of $154 billion.

Gramm-Rudman-Hollings was passed, in large part, to impress upon those in the financial markets that Congress was serious about reducing our massive deficits. Some thought that by placing into law an automatic budget-cutting mechanism, investors on Wall Street and throughout the Nation would know that the budget would be balanced in 6 year's time. All would then rest assured that interest rates would be lower because the Government would not absorb so great a percentage of available capital for the financing of Government debt. Investment would abound, and the economy would expand. So it was thought.

The Supreme Court struck down the automatic deficit-reduction mechanism on July 7. Still, the citizenry was told that there was a backup provision of the law by which Congress would reach the specified deficit targets.

Apparently that was not enough of an assurance, even for the sponsors of the legislation; indeed, the Senate spent several days in August trying to refine the automatic across-the-board budget cutting mechanism so it could pass constitutional muster.

That effort failing, we are now operating on our own.

I am certain that, before we leave on October 3, or 4, or 10, we will tell the public that as a result of our actions in these last weeks of the 99th Congress, the deficit will be $154 billion in fiscal year 1987.

I am just as certain that, on September 30, 1987, at the end of upcoming fiscal year, it will be announced that the deficit turned out to be much higher—perhaps $170 billion, perhaps $180 billion. In any event, we will be a long way from our fiscal year 1988 target of $108 billion, and the windfall of $9 billion collected by the Treasury in fiscal 1987 will turn to a shortfall of about $17 billion in fiscal year 1988.

What do private sector economists think of Gramm-Rudman-Hollings and the assurance of Congress? In the August 17 Washington Post, Alan Greenspan was quoted as saying:

It has become increasingly evident in recent weeks that the $144 billion target set for fiscal 1987 followed by a 1988 target of $108 billion is probably unreachable.

The Business Outlook section of Business Week magazine, in the September 22, 1986, edition, noted:

• • • There is little chance that next year's deficit will come even close to the Gramm-Rudman Act target of $144 billion. Indeed an analysis of 1987 budget proposals leads budget specialists at the Conference Board to conclude that next year's deficit will be about $225 billion.

That would be only a slight improvement over this year's red ink and a staggering $81 billion above Congress' goal.

In August, Data Resources [DRI] predicted a fiscal year 1987 deficit of $177.4 billion; in September, DRI is a bit more sanguine: $165.2 billion.

The September blue chip financial forecast surveyed leading economists, and reported that the average fiscal year 1987 deficit projection of the 10 most optimistic economists was $177 billion. The average of the 10 most pessimistic projections was a fiscal year 1987 deficit on $213 billion.

Clearly, private economists do not believe what Congress is telling them.

We should not say we will do something, or have done something, when we know the actual outcome will be different. To do so is to deceive. Such deception could lead to a loss of the public's trust in Congress. We ought not allow that to happen.

We should do what we can to reduce the deficit, but should not say we have done something we have not actually achieved. The public may forgive us for not being able to hit a specific deficit target; we will not be forgiven for misrepresentation of the facts.●

THE NATIONAL PEACE QUILT

● Mr. LAUTENBERG. Mr. President, the Peace Quilt, a quilt lent to supporters by Peace Links, has become an important symbol of our country's determination to live in a world free from the threat of nuclear war. The Peace Quilt is a compilation of American childrens' drawings, expressions, and dreams about world peace. All 50 States are represented on the quilt to demonstrate shared hopes and dreams for peace. I am proud that my name will be embroidered on the Peace Quilt next to the patch from New Jersey.

The joining of these patches in the Peace Quilt is an eloquent reminder that no State in this Nation alone can reduce the threat of nuclear war. It has reminded every Senator, Representative, and administration official that nuclear war is among the most critical issue facing our Nation and the world today. That we must work together to reduce the threat of nuclear holocaust. And that American childrens' hopes for peace are inextricably linked to our combined resolve and efforts to reduce the threat of nuclear war.

But the national Peace Quilt has become an important global symbol as well. The hopes and dreams of every child embroidered in the quilt are a reminder that all nations must redouble efforts to curtail the arms race. Every youth's drawing reminds us that all countries must work together in this effort. We must agree to restrain the growth of dangerous weapons systems and support arms control negotiations. All countries must cooperate if we are to live in a safe world, free from the threat of nuclear war.

Mr. President, many residents of New Jersey have played an active role in the grassroots peace movement and in Peace Links. These dedicated women have demonstrated their resolve and commitment to ensuring peace and to protecting the world from the perils of nuclear holocaust.

But New Jersey residents have actively participated in other peace organizations as well. Thousands of individuals in New Jersey have become increasingly involved in peace organizations like SANE, the Women's International League for Peace and Freedom, Educators for Social Responsibility, Physicians for Social Responsibility, and Lawyers Alliance for Nuclear Arms Control. Their presence has been strong in the religious groups, unions, and municipal and county governments in New Jersey which have worked hard to ensure that arms control remain a top priority here and throughout the world. And, increasing public concern about world peace in New Jersey convinced the New Jersey Legislature to create America's first State peace institute.

New Jerseyites understand the horror and total destruction that nuclear war would bring to our Nation, our community, our families, and our friends. They recognize the need for an end to the nuclear arms race. I share the concern of members of our community who are giving this inter-

national issue a local focus. And, I join them in the hope that greater public awareness will prompt effective steps to back away from nuclear war.

Mr. President, the patch in the National Peace Quilt from New Jersey sends a message of hope to the world. This patch displays a drawing of a 9-year-old child from New Jersey who etched a cheerful young girl dancing on flowers beneath a colorful rainbow. Above the dancing girl, the child drew a sun in the shape of a smiling heart. The caption on the block reads "Please give me peace."

Mr. President, we must work to make sure that this child's dreams and hopes are not crushed.●

NAUM AND INNA MEIMAN: LIFE SENTENCE

● Mr. SIMON. Mr. President, Naum and Inna Meiman, two good friends in Moscow are frantic in their desire to leave the Soviet Union.

Their quest for freedom in the West has now reached the point of desperation. Inna has lived for months with yet another cancerous tumor—her fifth—on her spine. The Soviets say that there is nothing more that they can do for her. Left to die a painful death in Moscow, Inna and Naum still have hope that they will be able to travel to the West to obtain experimental treatment for Inna.

Over a decade has passed since the Meimans original request for emigration. It is now a matter of life or death.

I strongly encourage the Soviets to demonstrate their concern for fellow human beings and allow the Meimans to emigrate to Israel.●

ARMS TALKS

● Mr. SIMON. Mr. President, recently the Washington Post's Sunday Outlook section featured an excellent article by Michael Krepon, an expert on the politics of arms control verification at the Carnegie Endowment for International Peace. Mr. Krepon's article skillfully details the demise of the Standing Consultative Commission [SCC], set up in 1972 as part of the SALT I agreement to monitor compliance with the SALT and ABM Treaty limits.

The SCC had long been an important panel to resolve disputes, a place where United States and Soviet concerns were successfully settled in a professional setting. This was the case until 1981, when the Reagan administration came to office. Shortly thereafter, Assistant Secretary of Defense Richard Perle led the charge against the SCC. His goal has been to scuttle the SCC as a useful negotiating forum and to keep problems unresolved so that outstanding compliance issues prevent arms control from moving forward.

As Mr. Krepon's article shows, General Ellis, our Ambassador to the SCC, needs a bureaucratic sponsor. The Pentagon has prevented Ambassador Ellis from negotiating a solution to several pressing problems, such as dismantlement and conversion procedures for bombers counted under SALT rules. I hope the State Department and the Arms Control and Disarmament Agency do the right thing and push the SCC's case before President Reagan.

Mr. President, I ask that Michael Krepon's article, "How Reagan Is Killing A Quiet Forum For Arms Talks," be printed in full in the RECORD.

The Article follows:

[From the Washington Post, Aug. 31, 1986]

HOW REAGAN IS KILLING A QUIET FORUM FOR ARMS TALKS

(By Michael Krepon)

In its crusade against alleged Soviet arms-control violations, the Reagan administration has nearly scuttled the secret U.S.-Soviet forum that was created to resolve such disputes.

The Standing Consultative Commission, as this little-known forum is called, was established in 1972 to monitor compliance with the SALT and ABM agreements that were negoiated that year. During the 1970's, quiet consultations in this secret channel produced important results, including agreements on procedures for dismantling missile launchers and guidelines for permissible weapons tests.

But hardliners in the Reagan administration decided early on that they weren't interested in using the SCC as a practical forum for hammering out compromise agreements on treaty compliance. Secretary of Defense Caspar Weinberger and his assistant, Richard Perle, preferred to denounce the Soviets for violating the SALT and ABM agreements, rather than to negotiate solutions to these problems in the SCC.

Weinberger's disdain for the SCC was evident in a memorandum he sent to President Reagan last November, in which he called the commission "a diplomatic carpet under which the Soviet violations have been continuously swept, an Orwellian memory hole into which our concerns have been dumped like yesterday's trash."

The civilian hardliners at the Pentagon found an unlikely adversary during the past four years in Gen. Richard Ellis, a survivor of more than 200 combat missions during World War II and a former head of the Strategic Air Command. As the chief American representative on the SCC, Ellis expected that his main adversary would be the Soviet commissioner. Instead, he has been caught in seemingly endless bureaucratic battles with Perle and Co.

This is the story of the breakdown of the SCC, a story of Soviet misbehavior that has been matched and compounded by administration officials who have exploited compliance controversies and blocked their resolution. U.S. and Soviet misbehavior has been mutually reinforcing, creating a political impasse that casts a dark shadow over current negotiations. This account is based on interviews with several dozen U.S. officials, who agreed to discuss the SCC's activities on a not-for-attribution basis. Ellis himself refused to discuss SCC matters, on or off the record.

American hardliners have hobbled the SCC by pursuing their strategy of confrontation. They start by asking for ideal solutions to compliance problems raised by Soviet actions. When the Kremlin refuses to accept these demands, the Reagan administration labels Moscow's actions as treaty violations. The United States then continues to demand ideal solutions, while refusing to negotiate alternatives that might also serve U.S. security interests. The blemished record of Soviet compliance is then used as a basis for withdrawing from SALT agreements.

A crippling blow to the SCC was struck last month, when the Reagan administration decided to remove most U.S. compliance concerns from the SCC's agenda. At a special session requested by the Kremlin to clarify the Reagan administration's declaration that SALT limitations "no longer exist," Ellis was instructed to tell his Soviet counterpart that, in the future, the administration would restrict compliance discussions to the ABM treaty. Conspicuously missing from this formulation was any reference to two other agreements within the commission's jurisdiction—the 1972 interim agreement on offensive missiles and the unratified SALT II treaty.

The special session marked a new low for the SCC. It demonstrated that the commission has evolved from a discreet channel for solving arms-control problems to a forum where each side now repeats carefully scripted accusatios of the other's misdeeds. This is a far cry from SCC deliberations in prior administrations, when very sensitive discussions took place and U.S. officials were able to achieve concrete results. For example:

Soviet agreement to provide detailed and graphic descriptions of missile launch-control facilities that they had under construction, alleviating U.S. concerns about their possible use as ICBM launchers. This exchange and others like it in the SCC opened an important window on Soviet military practices that had previously been closed.

Two 1974 protocols on procedures for dismantling missile launchers in excess of those permitted under SALT I, and a third protocol signed in 1976 detailing how the location of a permitted ABM site could be changed.

A lengthy "agreed statement" signed in 1978, regulating tests of air defense systems or components to limit their effectiveness against strategic ballistic missiles.

For the past three years, the usual superpower roles on compliance have been reversed. Most of the damage to SALT during this time has been generated by U.S. actions, including President Reagan's decision to scrap his SALT policy of "interim restraint," the reinterpretation of the ABM treaty to permit unrestricted tests of Strategic Defense Initiative weapons, and the construction of new early warning radars in Greenland and Scotland—far from the periphery of the United States, as required by the ABM treaty.

Prior to this time, Soviet actions did most of the damage to SALT. The Kremlin severely bent SALT II rules on new missile "types," heavily encrypted its missile tests, and constructed an early-warning radar in the interior of its country at Krasnoyarsk instead of its periphery. Soviet political decisions to embark on these dubious actions were probably made around 1979—after U.S.-Soviet relations turned sour. The level

of Soviet encryption jumped soon thereafter, in January 1980, and construction probably began on the Krasnoyarsk radar the following year. The fight testing of both new missiles began shortly before and after the death of General Secretary Leonid Brezhnev in November 1982.

For hardliners at the Pentagon and the arms control agency, the issue of Soviet noncompliance has always been the high card to play at critical periods of superpower dialogue. An uncorrected record of Soviet violations is essential to their case. Indeed, on the eve of superpower contacts that might help to resolve the very problems the hawks profess to worry about, they loudly raise compliance issues and the need for corrective action before any new accords can be considered.

For example, the administration disclosed its initial report on Soviet noncompliance five days before the first meeting between Secretary of State George Shultz and then-Soviet foreign minister Andrei Gromyko. Similarly, the November Weinberger memorandum suggesting responses to Soviet violations was sent to the president—and promptly leaked—just six days before the Reagan-Gorbachev summit last November.

The hardliners' campaign against the SCC has used similar obstructionist tactics, including a Pentagon boycott of the SCC for three negotiating rounds in 1983 and 1984.

One innovative tactic was a U.S. refusal to conclude the fall 1982 SCC session. The SCC usually convenes twice a year, in the spring and fall, with unresolved topics carried over from one session to the next. But Perle and his allies wanted to continue the fall session through the holiday season, if necessary, because the Soviets had failed to provide a satisfactory explanation to their concerns. Some U.S. officials believe Perle was angling for a Soviet walkout, a contention that Pentagon officials deny. After some sparring between the delegations and between U.S. officials in Washington and Geneva, an arrangement was worked out to "recess" the fall round. (The issue in dispute here was the possible deployment of the SS-16, a missile that has not been flight tested since 1976. Perle and others were convinced it had been covertly deployed at a test range near the White Sea.)

These bureaucratic games may appear petty, but they reflect the depth of feeling and tenacity with which administration opponents of arms control do battle on compliance issues. Of far greater consequence have been successful bureaucratic efforts to block problem-solving initiatives by Ellis.

During the fall 1982 round, Ellis succeeded in working out an elaboration of the SCC's 1978 understanding on the testing of air-defense systems and components. His instructions, however, prevented him from concluding this agreement for nearly three years. The administration's public reports on noncompliance still do not acknowledge this agreement, while continuing to cite the Soviets for "probably" violating the ABM treaty provision in question.

Ellis has also tried, without success, to finish up agreed procedures for bomber dismantlement, destruction or conversion—comparable to those reached in the mid-1970s for ICBM launchers and missile-carrying submarines.

During 1985 this issue grew in importance with the introduction of Bear-H cruise-missile-carrying bombers, which threatened to place the Soviets over the ceiling of strategic-weapon launchers they acknowledged having in SALT II. When asked, the Kremlin asserted it was under the ceiling because it had converted older Bison bombers to tankers. There was no way for the U.S. to tell, since the Bisons—perhaps two dozen in number—are parked on the ground in an aircraft boneyard in Siberia.

The bomber issue is still languishing. The Kremlin has played a waiting game, making no effort to resolve a SALT II issue primarily of concern to the United States. Gen. Ellis sought authority to work out agreed bomber procedures before the spring and fall 1985 SCC sessions, but Pentagon opposition to this initiative prevailed.

Ironically, the administration last December cited the Bison problem as a violation, albeit a militarily insignificant one. However, the administration's noncompliance report warned, "such violations can acquire importance if, left unaddressed, they are permitted to become precedents for future, more threatening violations." Then, in February 1986, Ellis was instructed to advise the Soviets that new procedures were "superfluous."

After each SCC session, Ellis cables back to Washington his summary of what transpired during the round and his recommendations for future U.S. moves. Those recommendations have invariably fallen on deaf ears. After the spring 1985 round, Ellis tried a more direct approach. On July 22, 1985, he addressed an interagency Senior Arms Control Group meeting chaired by Robert C. McFarlane, who was then national security adviser. At this meeting, Ellis asked for authority to update the SALT II data base of U.S. and Soviet strategic-weapon systems and to pursue steps to resolve the compliance problems posed by large phased-array radars like the one at Krasnoyarsk.

Nine days after Ellis' presentation, Weinberger sent a memo to McFarlane seeking to quash all of the initiatives proposed by the SCC commissioner. An updated data base wasn't needed, in Weinberger's view, because the United States could follow the disposition of Soviet strategic forces without it. Efforts to improve the viability of the ABM treaty, Weinberger warned, would set the stage for the "negotiated demise" of the Strategic Defense Initiative. Moreover, the negotiation of less-than-fully satisfactory solutions to Soviet compliance problems would "discredit" U.S. charges of violations.

Despite Weinberger's objections, two pragmatic option papers were forwarded to the White House for consideration last fall. The first suggested ways to avoid further erosion of the ABM treaty; the second laid out alternative resolutions that would alleviate U.S. strategic concerns over Soviet noncompliance. If, for example, the United States wished to prevent radars like that at Krasnoyarsk from being part of an effective territorial defense, it could seek limitations on their number and Soviet agreement that they be left completely undefended. And if the United States were concerned that the new SS-25 could be used to carry two warheads, it could seek aggreement that this missile and its successor never be flight tested with more than one.

Both option papers were vehemently opposed by Pentagon civilians who argued that the United States should not accept what they viewed as "cosmetic or marginal" solutions to Soviet noncompliance. The only acceptable solution to the radar problem was to tear it down, they argued. In the case of the new missile, the Soviets would have to roll back SS-25 deployments, destroying the missiles and their associated equipment.

The option papers sank without a trace in the National Security Council. Given the obscurity of the topics involved and Ellis' lack of bureaucratic support, it's doubtful that President Reagan has ever considered the proposals.

Administration hardliners are destroying the SALT agreements, and the forum created to maintian them. Questionable Soviet compliance with these agreements has certainly played a role in SALT's demise. But with President Reagan's decision to scrap the SALT limits, the rallying cry now heard in Pentagon corridors is: "Two down and one (the ABM treaty) to go."

IN DEFENSE OF JUSTICE WILLIAM J. BRENNAN

● Mr. KERRY. Mr. President, Associate Justice William J. Brennan of the U.S. Supreme Court needs no defense from any Member of the U.S. Senate. He is one of the most distinguished jurists ever to sit on the Federal bench.

Yet I feel compelled to respond to yet another attack on Justice Brennan, this time coming from a member of this administration. In the past, Justice Brennan has been the object of rhetorical attacks by right-wing elements. Now, Assistant Attorney General William Bradford Reynolds has joined their ranks.

Mr. Reynolds, in a speech last weekend at the University of Missouri School of Law, denounced Justice Brennan by name, on the grounds that Justice Brennan was trying to achieve a "radically egalitarian society." Mr. Reynolds stated that he regards such "radical egalitarianism" as "perhaps the major threat to individual liberty" in the United States today.

It is highly inappropriate for a member of the Justice Department to attack a sitting Justice of the Supreme Court by name. But, leaving aside the impropriety of this personal attack on Justice Brennan, the views expressed by Mr. Reynolds are also inappropriate. When has "egalitarianism" been considered a vice in our society? In fact, an egalitarian vision of society is the underpinning of our Constitution, the Declaration of Independence, and the Bill of Rights.

Mr. Reynolds singled out a speech given by Justice Brennan on August 8 to the American Bar Association for particular criticism. In that speech, which focused on the 14th amendment, Justice Brennan hailed that amendment as "the legal instrument of the egalitarian revolution that transformed contemporary society." The 14th amendment, which was ratified in 1868, declares that no State shall deny "equal protection of the laws" to any person within its jursdiction. Justice Brennan said, correctly in my view, that the promise of the 14th amendment has remained unfulfilled, and that despite great progress in recent years, "the goal of universal equality, freedom, and prosperity is far from won." Mr. Reynolds found these views deplorable, and said "that

agenda has little or no connection with the Constitution, the Bill of Rights, or any subsequent amendment."

Mr. President, it is almost incredible that Mr. Reynolds, in 1986, would seek to turn his back on the protections of the 14th amendment, and to turn the clock back to the days of prejudice and racial segregation in this country. Mr. Reynolds has stubbornly refused to accept repeated rulings of the Supreme Court in this term in favor of affirmative action programs which would bring about greater equality in American society. He has instead insisted on criticizing those decisions publicly, and attacking one of the most respected members of the Court.

It is Mr. Reynolds' views which are radical, not those of Justice Brennan. The views of Mr. Reynolds have, in fact, been already rejected by the U.S. Senate, which rejected his nomination for the position of Associate Attorney General. It is the duty of Mr. Reynolds, as an official of the Department of Justice, to uphold the law as laid down by the U.S. Supreme Court. His public statements indicate a reluctance to fulfill that duty.

Justice Brennan, appointed by President Eisenhower, has served with distinction on the Supreme Court for 30 years. He has always been a staunch advocate of equal opportunity and individual rights. Now, at a time when the nominations of Chief Justice Rehnquist and Justice Scalia have given renewed attention to the role of the Supreme Court, it is especially appropriate that we give careful consideration to the views expressed eloquently by Justice Brennan. I hope that he will remain a voice for equality and justice on the Court for many years to come. I ask that the text of Justice Brennan's August 8 speech to the ABA on the 14th amendment be printed in the RECORD.

The text follows:

THE FOURTEENTH AMENDMENT

(Address to Section on Individual Rights and Responsibilities, American Bar Association, by Justice William J. Brennan, Jr.)

My subject today is the Fourteenth Amendment which, in the 119 years since it became a part of the fundamental law, "has become, practically speaking, perhaps our most important constitutional provision—not even second in significance to the original basic document itself. . . . It is the amendment that served as the legal instrument of the egalitarian revolution that transformed contemporary American Society." [1] Its progenitor was, of course, Magna Carta, more particularly the famous Chapter 39 of the Great Charter providing that "no free man shall be taken, imprisoned, disseized, outlawed, banished, or in any way destroyed, nor will we proceed against or prosecute him, except by the lawful judgment of his peers by the law of the land." Indeed, however, the Fourteenth Amendment is a more complete catalogue than the great Charter of the liberties we know today. Notably, nothing in the Great Charter concerned freedom of religion, of speech, or of the press. Nor is the Great Charter itself free of sex discrimination, providing as it does, that "no one shall be taken or imprisoned upon the appeal of a woman for the death of anyone except her husband."

Yes, once the Supreme Court recognized that every individual in our country possessed a domain of personal autonomy and dignity in which neither state nor federal government had any right to intrude, it was inevitable that the Fourteenth Amendment should be summoned to the service of the protection of a broad range of civil rights and liberties.

Is this mere hyperbole and exaggeration? I do not think so. Remember that "From the founding of the Republic to the end of the War Between the States, it was the states that were the primary guardians of their citizens' rights and liberties and they alone could determine the character and extent of such rights. This was true because the Bill of Rights was binding upon the federal government alone—not the states. With the Fourteenth Amendment, all this was altered. That amendment called upon the national government to protect the citizens of a state against the state itself. Thenceforth, the safeguarding of civil rights was to become primarily a federal function. . . ." [2]—at least until the discovery recently by state supreme courts of their state constitutions.

But the federal responsibility was not immediately shouldered by the federal courts upon adoption of the amendment in 1868. Rather, the amendment became a "Magna Carta for business, in place of the Great Charter for individual rights which its framers had intended. It is, indeed, one of the ironies of American constitutional history that, for the better part of a century [after its adoption], the Fourteenth Amendment was of little practical help to the very race for whose benefit it was enacted. For at the very time it was serving to shield the excesses of expanding capital from governmental restraints. . . . The constitutional emphasis however . . . shifted in this century to one of ever-growing concern for 'life and liberty' as the really basic rights which the Constitution was meant to safeguard. The earlier stress upon the protection of property rights against governmental violations of due process gave way to one which increasingly focused upon personal rights. Under the newer approach, the Fourteenth Amendment would at last become (as its framers intended) the shield of individual liberties throughout the nation." [3] *Brown* v. *Board of Education* and *Baker* v. *Carr* are only the most visible proofs. Of equal—maybe even more—significance were the holdings that "the Fourteenth Amendment's requirement of due process . . . demands adherence by the states to most of the rights guaranteed in the Bill of Rights . . . our great unifying theme in these decisions was that of equality; equality as between races, between citizens, between rich and poor, between prosecutor and defendant." [4] This effected the "most profound and pervasive revolution ever achieved by substantially peaceful means." [5] And in the area of political rights, it has been said that this "constitutional development brought more significant advances in the protection and advancement of political rights than all the rest of our constitutional history put together . . . voting rights were vastly enlarged, to the great advantage of Negro and Puerto Rican minority groups, and to the great benefit of the Nation; poll taxes were eliminated, first in federal elections by the Twenty-fourth Amendment, and then in state elections on equal protection grounds. Literacy tests that were used for discriminatory purposes were ruled invalid. . . . Perhaps most important of all, the distortions in the governing process caused by minority-controlled legislatures were put aside as malapportionment became a matter of history rather than a fact of present contentions." [6] And, importantly for champions of civil rights and liberties, under many decisions "the Fourteenth Amendment was the source for making the Constitution not only color-blind, but also creed-blind, status-blind, and sex-blind. The law regards man as man and takes no regard of those traits which are constitutional irrelevances." [7]

What accounts for the change? I agree with those who believe that the concern of the Supreme Court over the past 50 years for personal rights "represented a direct judicial reaction to the vast concentrations of power confronting the individual in our urbanized industrial society. In that society judges developed a countervailing emphasis upon preserving an area of personal right consistent with the maintenance of individual development. Such emphasis . . . was vital if man was to continue to possess the essential attributes of humanity 'lacking which' as William Faulkner puts it, 'he cannot be an individual and lacking which individuality he is not worth the having or keeping." [8] Judges, like all of you, necessarily disturbed by the growth of authority, sought to "preserve a sphere for individuality even in a society in which the individual stands dwarfed, if not overwhelmed, in the face of the power concentrations that confront him in the contemporary community." [9]

Were there a list of principles fundamental to the functioning of a free republic, it would, in addition to guaranteeing that no citizen would be denied an education, a house, or a job on account of the color of his skin, certainly include an assurance that each citizen's vote would count no more or no less than that of any other citizen, that his government would take no voice in or interfere with his religion, that he would enjoy freedom of speech and a free press, and that the administration of criminal laws would adhere to civilized standards of fairness and decency. The Fourteenth Amendment has proved to be capable of assuring all of these things. In sum, it can function as the prime tool by which we as citizens can shape a society which truly champions the dignity and worth of the individual as its supreme value.

It is true that, in the first half century of its existence, its function as a document of human freedom lay dormant; it was employed instead as a weapon by which to censor and strike down economic regulatory legislation of the States. This was in step with the compromise which settled the Hayes-Tilden presidential election of 1876. That compromise postponed the enforcement of the Fourteenth Amendment in behalf of the Negro, a result furthered by the decisions of the Supreme Court which invalidated the Civil Rights Act of 1875 and held that separate but equal facilities satisfied the demands of the equal protection clause. In the last half century, however, the construction and application given the amendment by the federal judiciary started to put it back on the track and assure that it would come into its own.

For Congress left primarily to the federal judiciary the tasks of defining what constitutes a denial of "due process of law" or "equal protection of the laws" and of applying the amendment's prohibitions as so defined where compliance counted, that is, against the excesses of state and local governments. Congress saw that to accord state and local governments immunity from effective federal court review would be to render the great guarantees nothing more than rhetoric. Congress did not use its § 5 powers to define the amendment's guarantees, but confined its role to the adoption of measures to enforce the guarantees as interpreted by the judiciary. And, of course, § 5 grants Congress no power to restrict, abrogate or dilute the guarantees as judicially construed.[10]

Congress' investiture of the federal judiciary with broad power to enforce the limits imposed by the amendment reflects acceptance of two fundamental propositions. First, it demonstrates a recognition that written guarantees of liberty are mere paper protections without a judiciary to define and enforce them. Second, it reflects acceptance of the lesson taught by the history of man's struggle for freedom that only a truly independent judiciary can properly play the role of definer and enforcer.

Contrast, for example, the Universal Declaration of Human Rights in the Charter of the United Nations, which expressed in ringing words moral condemnation of the tradedy suffered by countless human beings over the face of the globe who are deprived of their liberty without accusation, without trial, upon nothing but the fiat of a sovereign government. The forthright prohibition of Article IX, solemnly joined by all the signatory powers, is that "No one shall be subject to arbitrary arrest, detention, or exile." But that has been no more than empty rhetoric, and must remain so, without an international tribunal and procedure to hold an offending signatory state to compliance with these great principles. As things stand, concepts of personal and territorial supremacy—national sovereignty—leave each member state free to grant its nationals only that measure of due process provided by its own laws, however far short that measure is of the standard of the Universal Declaration.

Contrast the way the declaration of similar substantive rights in the Fourteenth Amendment has been made meaningful by a system of judicial enforcement. Our concepts of due process in criminal proceedings are familiar to every American: a prompt and speedy trial, legal assistance (provided by government in the case of the indigent), prohibition of any kind of undue coercion or influence, freedom to conduct one's own defense, the right to a public trial and written proceedings, the presumption of innocence and the burden upon government to prove guilt beyond a reasonable doubt, and security against cruel and unusual punishments. Congress has ordained that the federal courts shall redress denial by any of the states of these standards of due process. In 1867, contemporaneously with its proposal of the Fourteenth Amendment to the states, Congress extended the ancient writ of *habeas corpus*—that must important writ to a free people, affording as it does a swift and imperative remedy in cases of illegal restraint or confinement—to any person claiming to be held in custody by a state in violation of the Constitution or laws or treaties of the United States.[11] The individual simply petitions a federal court to hear his claim that his detention by a state is a violation of federal guarantees. It avails the state nothing that the detention does no violence to state law or the state constitution. The guarantees of the federal Constitution are the higher law. It is true that the federal court will not hear a state prisoner who has not first exhausted any available state remedies for decision of his federal claims. For upon the state courts equally with the federal courts rests the obligation to guard, enforce and protect every right granted or secured by the Constitution of the United States. However, the state prisoner is not precluded from seeking federal relief by any determination of a state court that his federal claim has no merit. The prisoner may seek review of that holding in the federal courts, including the Supreme Court of the United States. Since he seeks his release on a claim of unconstitutional denial of a right secured to him by the federal Constitution, the last word as to its merits is for federal and not state tribunals.

In other words, Congress has provided a suprastate procedure for vindicating the guarantees which are the foundation of our free society. A most important corollary effect of the existence of this suprastate remedy is the incentive given to the judiciaries of the several states to secure every person against invasion of the rights guaranteed him by the basic law of the land.

When Congress decided to rely on the federal judiciary to define and enforce the guarantees of the Fourteenth Amendment, it was in effect acknowledging the peculiar competence of that branch of government to perform such tasks.

The Constitutional Convention had overwhelming rejected a proposal which would have provided that judges "may be removed by the Executive on the application by the Senate and House of Representatives." We must, therefore, take it that the post-Civil War Congress, in enormously expanding federal judicial power to enable the federal courts effectively to enforce the new constitutional limits on state authority, fully expected that an independent federal judiciary would regard it a solemn duty to interpret and apply the new constitutional restraints in the spirit and sense intended by their framers, however unpopular with local authority or majority sentiment. Such expectation is, after all, the heart of our constitutional plan of judicially enforceable restraints.

The judicial task in defining and enforcing the Fourteenth Amendment was made particularly formidable by the patent ambiguity of the terms "due process of law" and "equal protection of the laws." By design, the great clauses of the Constitution had been broadly phrased to keep their noble principles adaptable to changing conditions and changing concepts of social justice, but "due process of law" and "equal protection of the laws" were particularly empty vessels. In Cardozo's words, they are "of the greatest generality."

It is true that the term "due process of law" derived from Magna Carta. It is the equivalent of the term, the "law of the land." But the Supreme Court from the beginning rejected the notion that "due process of law," as used in either the Fifth or Fourteenth Admendments, embraced nothing except what constituted the "law of the land," as sanctioned by settled usage in England or in this country. In a case decided in 1884, when the amendment was but 16 years old, the Court said;

". . . to hold that such a characteristic is essential to due process of law, would be to deny every quality of the law but its age, and to render it incapable of progress or improvement. It would be to stamp upon our jurisprudence the unchangeableness attributed to the laws of the Medes and Persians.

". . . it is better not to go too far back into antiquity for the best securities for our 'ancient liberties.' It is more consonant to the true philosophy of our historical legal institutions to say that the spirit of personal liberty and individual right, which they embodied, was preserved and developed by a progressive growth and wise adaptation to new circumstances and situation of the forms and processes found fit to give, from time to time, new expression and greater effect to modern ideas of self-government." [12]

Congress has not yet chosen to exercise its power under section 5 of the amendment fully to enlighten us as to the constitutional goals that should be furthered in applying the amendment's restraints; nor is the judiciary confined to discovering how the framers would have construed and applied those restraints. In the words of Chief Justice Hughes:

"if by the statement that what the Constitution meant at the time of its adoption it means today, it is intended to say that the great clauses of the Constitution must be confined to the interpretation which the framers, with the conditions and outlook of their time, would have placed upon them, the statement carries its own refutation. It was to guard against such a narrow conception that Chief Justice Marshall uttered the memorable warning"—'We must never forget that it is a *constitution* we re expounding' (*McCulloch* v. *Maryland* . . .)—'a constitution intended to endure for ages to come, and consequently, to be adapted to the various *crises* of human affairs.'. . . When we are dealing with the words of the Constitution, said this court in *Missouri* v. *Holland* . . . 'We must realize that they have called into life a being the development of which could not have been foreseen completely by the most gifted of its begetters. . . . The case before us must be considered in the light of our whole experience and not merely in that of what was said a hundred years ago'." [13]

In giving meaning to the terms "due process of law" and "equal protection of the laws," federal judges have so far been aware, as Judge Learned Hand admonished: "that there are before them more than verbal problems; more than final solutions cast in generalizations of universal applicability. They must be aware of the changing social tensions in every society which makes [sic] it an organism; which demand new schemata of adaptation; which will disrupt it, if rigidly confined." [14]

This approach of the federal judiciary promised the country to make the Fourteenth Amendment a potent tool in the attack upon the central problem of the Twentieth Century in our country. Society's overriding concern today should continue to be, indeed must continue to be, providing freedom and equality, in a realistic and not merely formal sense, to all the people of this Nation. We know that social realities do not yet fully correspond to the promise of the Fourteenth Amendment. We do not yet have justice, equal and practical, for the poor, for the members of minority groups, for the criminally accused, for the displaced persons of the technological revolution, for alienated youth, for the urban masses, for the unrepresented consumer—for all, in short, who do not partake of the abundance

of American life. Congress and the federal judiciary have done much in recent years to close the gap between promise and fulfillment, but who will deny that despite this great progress the goal of universal equality, freedom and prosperity is far from won and that ugly inequities continue to mar the face of our nation? We are surely nearer the beginning than the end of the struggle.

And the struggle is once again putting at stake the substance of the Fourteenth Amendment. It is a seething, roaring conflict in our society, and among judges. "The battle is fought, as always, as a conflict over the meaning of the great phrases of the amendment—due process, equal protection of the laws, and privileges and immunities of citizens of the United States; and it rages as a conflict over the respective powers of the national and state governments. . . . Throughout its [more than a] century of existence, the Fourteenth Amendment has meant many things to many men. Men of equal integrity, of equal devotion to freedom and liberty and patriotism, have arrived at fundamentally different interpretations of its words and principles. No one familiar with the judicial opinions or the scholarly literature would assert the contrary.[15] A reason for alarm is that in the face of signs of negation once again "one can't avoid thinking that perhaps there is a sad parallel between [the post-Civil War period] and now: Is the curve of events, this time, to retrace that which followed the Civil War?"[16] Then, at the same time the Supreme Court was engaged in major expansion of the amendment's scope on behalf of the property interests, it was involved in a drastic curtailment of its scope with respect to the amendment's intended beneficiaries—the Negroes or freedmen . . . we can hardly avoid a sigh of regret for what might have been: If the Supreme Court had not emasculated the amendment; if Justice Miller has voted the other way in the Slaughterhouse cases and thereby turned the majority around; if the elder Harlan's lone dissent in the Civil Rights cases had prevailed; if the Fourteenth Amendment had not lain substantially dormant as a document of human freedom until at least the 1930's. . . . If, rather, the amendment had been faithfully applied as it was intended; to insure by governmental action, national and local, that all men and women were secure—and secure equally—in their fundamental rights to life, liberty and property; if this had been the course of history;[17] perhaps we would not have reason today uneasily to ask "Will the new commitment, begun most dramatically in 1954 to enforcement of fundamental and equal rights for all be reduced once again to a "feeble promise of maybe, sometimes and only in some respects."[18] Even though "the great command of the Fourteenth Amendment—equally under the rule of law, protecting the fundamental rights of humanity—is basic in our religious and ethical ideals,"[19]—and has been enforced primarily by the judicial branch—history can repeat itself; it has happend before—and more than once.

But if we do stand at the threshold of a time that "will usher in a new and savage struggle between freedom's believers and its destroyers"[20] the ultimate outcome may well depend on the repsonse of the Bar—not only of you of this Section already committed to protection of individuals rights, but also of lawyers throughout the land. I personally have faith that freedom will survive and that the Fourteenth Amendment's great principles will flourish." But they will successfully resist impending onslaught only as [lawyers] have the courage to understand and acknowledge their meaning; . . . have courage to acknowledge their ambiguities and uncertainties as well as their positive commands; only as they understand our history; and only as they and all of us have the faith and courage to defend freedom and justice and equality and to stand steadfastly and unmoving against those who, in whatever guise, seek nullification of the great principles of our American Constitution." [21]

And we must not be beguiled with thinking that, because state supreme courts are increasingly evaluating their state constitutions and concluding that those constitutions should be applied to confer greater civil liberties than their federal counterparts, we can safely ignore the deterioration being worked on Fourteenth Amendment protections. We can and should welcome this development in state constitutional jurisprudence—indeed, my own view is that this rediscovery by state supreme courts of the broader protections afforded their own citizens by their state constitutions—spawned in part certainly by dissatisfaction with the decisional law being announced these days by the United States Supreme Court—is probably the most important development in constitutional jurisprudence of our times. For state constitutional law will assume an increasingly more visible role in American law in the years ahead. Lawyers should take heed: Justice Hans Linde of the Oregon Supreme Court has said, for example: "A lawyer today representing someone who claims some constitutional protection and who does not argue that the state constitution provides that protection is skating on the edge of malpractice." *Welsh* v. *Collins*, "Taking State Constitutions Seriously." The Center Mag. 6, 12 (Sept., Oct. 1981).

But this most welcome development does not mean that we can stop resisting cutbacks, particularly by the Supreme Court of the United States, of Fourteenth Amendment protections. One of the great strengths of our federal system is that it provides a double source of protection for the liberties of our citizens. Federalism is not served when the federal half of that protection is crippled.

FOOTNOTES

[1] *The Fourteeth Amendment*, Centennial Volume, N.Y.U. Press, p. 29
[2] *Id.*, p. 31
[3] *Id.*, p. 31-32
[4] *Id.*, p. 33
[5] *Id.*, p. 34
[6] *Id.*, p. 70
[7] *Id.*, p. 37
[8] *Id.*, p. 35
[9] *Id.*, p. 35
[10] *Katzenback* v. *Morgan*, 384 U.S. 643, 651, n 10 (1966)
[11] 14 Stat. 385 (1867); see *Fay* v. *Noia*, 372 U.S. 391 (1963)
[12] *Hurtado* v. *California*, 110 U.S. 516, 529, 530 (1884)
[13] *Home Building and Loan Assn* v. *Blaisdell*, 290 U.S. 398, 442 (1934)
[14] Hand, *Sources of Tolerance*, 79 U. Pa. L. Rev. 1, 13 (1930)
[15] *The Fourteenth Amendment*, *supra*, n. 1, 100
[16] *Id.*, 112
[17] *Id.*, 102
[18] *Id.*
[19] *Id.*, at 112
[20] *Id.*, at 114
[21] *Id.*

ORDERS FOR FRIDAY

RECESS UNTIL 9:30 A.M.

Mr. HELMS. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until 9:30 a.m. on Friday, September 19, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. HELMS. Following the recognition of the two leaders under the standing order, I ask unanimous consent that the following Senators be recognized for not to exceed 5 minutes each for special orders: Mrs. HAWKINS, Mr. PROXMIRE, Mr. HEINZ, Mr. SASSER, Mr. WALLOP, Mr. BAUCUS, and Mr. MATTINGLY.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. HELMS. Following the special orders just identified, I ask unanimous consent there be a period for the transaction of routine morning business not to extend beyond 10:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. HELMS. At the conclusion of morning business, the Senate will resume the pending business, S. 2706, the reconciliation bill. It may also be the intention of the majority leader to turn to any other legislative or executive items cleared for action. Senators should be on notice that votes are expected throughout the day and a late session—for emphasis, I repeat a late session—is anticipated on Friday.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—RECONCILIATION BILL

Mr. HELMS. Mr. President, I ask unanimous consent that on tomorrow, at such time as the chairman and the ranking minority member of the Budget Committee are ready to resume consideration of S. 2706, the reconciliation bill, there be 8 hours of the 20 originally provided under the law remaining for debate; further provided that, meanwhile, S. 2706, the

reconciliation bill, retain its current status as the pending business.

Mr. BYRD. Reserving the right to objection—I shall not object—this request has been cleared on this side of the aisle. I remove my reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. HELMS. Mr. President, I inquire of the distinguished minority leader if he is in a position to consider the following nominations on the Executive Calendar: No. 1027 to No. 1029 under the Air Force; No. 1030 through No. 1033, under the Army; No. 1034 through No. 1038, under the Navy; No. 1039, Harold T. Duryee; and all nominations placed on the Secretary's desk, with the exception of the nomination of Edwin G. Corr.

Mr. BYRD. Mr. President, I ask the distinguished acting Republican leader what the last calendar order number was that he identified. What was that number?

Mr. HELMS. 1039.

Mr. BYRD. Mr. President, I think I have heard the distinguished acting Republican leader accurately.

On this side of the aisle, the following nominations have been cleared by all Members and we are ready to proceed with the confirmation thereof: All nominations on page 2 of the Executive Calendar, under the Air Force and under the Army; all on page 3 under the Army; all on page 4 under the Navy; all on page 5 under the Navy; all on page 6 under the Navy; Calendar No. 1039 on page 7; and all nominations placed on the Secretary's desk in the Air Force, Marine Corps, Navy, Senior Foreign Service, including Mr. Corr.

Mr. HELMS. My unanimous-consent request was with the exception of Edwin G. Corr.

Mr. BYRD. Yes.

Mr. HELMS. With that understanding, I ask unanimous consent that the Senate go into executive session to consider the nominations just identified and that they be considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, Section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Edward J. Heinz, [redacted]FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Bradley C. Hosmer, [redacted]FR, U.S. Air Force.

The following-named officer, under provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Forrest S. McCartney, [redacted]FR, U.S. Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3040(b), to be appointed as Assistant Surgeon General/Chief, Dental Corps, U.S. Army:

Brig. Gen. Billie B. Lefler [redacted], U.S. Army.

The following-named Army Reserve officer for appointment as Chief, Army Reserve, under the provisions of title 10, United States Code, section 3019:

Maj. Gen. William Francis Ward, [redacted].

The following officers for appointment as Reserve commissioned officers in the Adjutant General's Corps, Army National Guard of the United States, Reserve of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. James A. Ryan, [redacted].
Brig. Gen. Carl G. Farrell, [redacted].
Brig. Gen. Charles E. Scott, [redacted].

The following-named Army Dental Corps Competitive Category officer for appointment in the U.S. Army to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

To be permanent brigadier general

Col. Thomas R. Tempel [redacted], Dental Corps Competitive Category, U.S. Army.

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Paul McCarthy, Jr., [redacted]/1310, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. (lower half) Paul D. Miller, [redacted]/1110, U.S. Navy.

The following-named rear admirals (lower half) of the line of the Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefore as provided by law:

UNRESTRICTED LINE OFFICER

Roger Francis Bacon.
Jerry Creighton Breast.
Paul Donald Butcher.
Guy Haldane Curtis III.
Harry Kenneth Fiske.
Raymond Paul Ilg.
Jerome Lamarr Johnson.
Robert Joseph Kelly.
Robert Kalani Uichi Kihune.
Henry Herrward Mauz, Jr.
William Tyler Pendley.
James Guy Reynolds.
Dean Reynolds Sackett, Jr.
James Michael Gleaso Seely.
John Frederick Shaw.
Hugh Larimer Webster.
John Raymond Wilson, Jr.,

RESTRICTED LINE—ENGINEERING DUTY OFFICER

Malcolm Mackinnon, III.
Kenneth Cornelius Malley.

RESTRICTED LINE—AERONAUTICAL ENGINEERING DUTY OFFICER

John Clark Weaver.

The following-named rear admirals (lower half) of the United States Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefore as provided by law:

CIVIL ENGINEER CORPS

Arthur William Fort.
Frederick Guyer Kelley.

The following-named rear admirals (lower half) of the Reserve of the U.S. Navy for permanent promotion to the grade of rear admiral in the line and staff corps, as indicated, pursuant to the provisions of title 10, United States Code, section 5912;

UNRESTRICTED LINE OFFICERS

John Edward Love.
John Dennis Summers.

AERONAUTICAL ENGINEERING DUTY OFFICER (AERONAUTICAL ENGINEERING)

Clay Wayland Gordon Fulcher.

SPECIAL DUTY OFFICER (CRYPTOLOGY)

William Joseph Miles.

SPECIAL DUTY OFFICER (INTELLIGENCE)

Robert Patrick Tiernan.

MEDICAL CORPS OFFICERS

John Duncan Tolmie.
James Glen Roberts.

DENTAL CORPS OFFICER

Edward John O'Shea, Jr.

JUDGE ADVOCATE GENERAL'S CORPS OFFICER

Robert Edward Wiss.

CHAPLAIN CORPS OFFICER

John Joseph Hever.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Harold T. Duryee, of the District of Columbia, to be Federal Insurance Administrator, Federal Emergency Management Agency, vice Jeffrey S. Bragg, resigned.

IN THE AIR FORCE

Air Force nominations beginning Richard O. Abderhalden, Jr., and ending Daryl A. Yerkes, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1986.

IN THE MARINE CORPS

Marine Corps nominations beginning Robert J. Agro, and ending James G. Zumwalt, II, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 14, 1986.

Marine Corps nominations beginning Steven Barnett, and ending Mark A. Werth, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1986.

IN THE NAVY

Navy nominations beginning Susan D. Harvey, and ending Paul M. Votruba, which nominations were received by the Senate

and appeared in the CONGRESSIONAL RECORD of September 9, 1986.

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Mr. HELMS. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. HELMS. Mr. President, under the previous order I move that the Senate now stand in recess until 9:30 a.m. tomorrow morning.

The motion was agreed to, and at 7:49 p.m. the Senate recessed until Friday, September 19, 1986, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 18, 1986:

WORLD HEALTH ORGANIZATION

Frank E. Young, of Maryland, to be Representative of the United States on the Executive Board of the World Health Organization, vice Edward N. Brandt, Jr., resigned.

DEPARTMENT OF DEFENSE

James F. McGovern, of Virginia, to be Under Secretary of the Air Force, vice Edward C. Aldridge, Jr.

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the appropriate provisions of section 624, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

LINE OF THE AIR FORCE

To be colonel

Abbey, Dennis O., xxx-xx-xxxx
Abel, Raymond E., Jr., xxx-xx-xxxx
Adams, Gerald R., xxx-xx-xxxx
Agnew, John T., xxx-xx-xxxx
Agnor, Raymond M., Jr., xxx-xx-xxxx
Ahern, Daniel B., xxx-xx-xxxx
Aikman, Lynn A., xxx-xx-xxxx
Aitken, George G., xxx-xx-xxxx
Alexander, Thomas L., xxx-xx-xxxx
Algire, Richard G., xxx-xx-xxxx
Allen, Robert A., Jr., xxx-xx-xxxx
Allevato, John T., xxx-xx-xxxx
Almand, Larry M., xxx-xx-xxxx
Ames, Robert R., xxx-xx-xxxx
Anders, Wayne R., xxx-xx-xxxx
Anderson, Darwin C., xxx-xx-xxxx
Anderson, Frank W., Jr., xxx-xx-xxxx
Anderson, Kurt B., xxx-xx-xxxx
Anderson, Reed M., xxx-xx-xxxx
Andre, Jerome P., xxx-xx-xxxx
Andreus, Frank C., II, xxx-xx-xxxx
Andrews, Franklin J., xxx-xx-xxxx
Andrews, James E., xxx-xx-xxxx
Andrews, Robert P., xxx-xx-xxxx
Anthony, Ron A., xxx-xx-xxxx
Archibald, Harold A., xxx-xx-xxxx
Ashby, Randolph W., xxx-xx-xxxx
Atkinson, David E., xxx-xx-xxxx
Atkinson, Thomas F., Jr., xxx-xx-xxxx
Austin, Gary M., xxx-xx-xxxx
Azuma, Robert T., xxx-xx-xxxx
Baars, Thomas E., xxx-xx-xxxx
Bailey, Gregory P., xxx-xx-xxxx
Baker, Carl L., xxx-xx-xxxx
Baker, Herbert G., xxx-xx-xxxx
Banachowski, Chester A., xxx-xx-xxxx
Barnard, Howard D., III, xxx-xx-xxxx
Bartholomew, Raymond J., xxx-xx-xxxx
Barton, Richard W., xxx-xx-xxxx
Bauer, Bruce L., xxx-xx-xxxx
Bauer, Christian A., xxx-xx-xxxx
Bauer, James F., xxx-xx-xxxx
Bean, William R., Jr., xxx-xx-xxxx
Beauregard, Richard J., xxx-xx-xxxx
Beck, Dennis G., xxx-xx-xxxx
Beck, Rex E., Jr., xxx-xx-xxxx
Beck, Robert J., xxx-xx-xxxx
Becker, Gerald E., xxx-xx-xxxx
Beckner, William E., xxx-xx-xxxx
Beckwith, Everett G., xxx-xx-xxxx
Bell, Frederick M., xxx-xx-xxxx
Bell, Ralph H., xxx-xx-xxxx
Bendlin, Gary R., xxx-xx-xxxx
Benedict, Stephen L., xxx-xx-xxxx
Bernhardt, James H., xxx-xx-xxxx
Berry, Arnold M., xxx-xx-xxxx
Betzing, Martin H., xxx-xx-xxxx
Bewley, Carroll E., xxx-xx-xxxx
Bey, Victor L., xxx-xx-xxxx
Biezad, Daniel J., xxx-xx-xxxx
Bigelow, Richard E., xxx-xx-xxxx
Bigham, Eugene F., xxx-xx-xxxx
Birdlebough, Michael W., xxx-xx-xxxx
Black, Ralph P., Jr., xxx-xx-xxxx
Blitt, William J., xxx-xx-xxxx
Bolton, Claude M., Jr., xxx-xx-xxxx
Boney, James S., xxx-xx-xxxx
Boniface, George B., Jr., xxx-xx-xxxx
Boone, William L., xxx-xx-xxxx
Booth, Thomas R.L., xxx-xx-xxxx
Borowski, Richard A., xxx-xx-xxxx
Bost, Thomas D., xxx-xx-xxxx
Boudreaux, Ray M., xxx-xx-xxxx
Bowen, Paul B., xxx-xx-xxxx
Bowman, John G., Jr., xxx-xx-xxxx
Boyce, Joseph B., Jr., xxx-xx-xxxx
Boykin, Kenneth S., xxx-xx-xxxx
Boykin, Samuel V., Jr., xxx-xx-xxxx
Bradbury, Byron G., xxx-xx-xxxx
Bradley, Stuart C., xxx-xx-xxxx
Brady, Terrence J., xxx-xx-xxxx
Brantner, Karen S., xxx-xx-xxxx
Bras, Victor D., xxx-xx-xxxx
Bream, Joseph R., xxx-xx-xxxx
Breedlove, Phillip G., xxx-xx-xxxx
Bridges, Clayton G., xxx-xx-xxxx
Bridges, John F., xxx-xx-xxxx
Brown, Nelson C., xxx-xx-xxxx
Brown, Timothy D., xxx-xx-xxxx
Bruce, Philip W., xxx-xx-xxxx
Bruns, David A., xxx-xx-xxxx
Bryan, Edwin B., xxx-xx-xxxx
Bryan, Robert E., xxx-xx-xxxx
Bryant, Ronald xxx-xx-xxxx
Bryson, Jon H., xxx-xx-xxxx
Buchanan, Norman H., xxx-xx-xxxx
Bucher, Wallace T., xxx-xx-xxxx
Budinger, Fred W., Jr., xxx-xx-xxxx
Buickerood, Richard W., xxx-xx-xxxx
Bunnell, Robert J., xxx-xx-xxxx
Bunzendahl, Sidney P., Jr., xxx-xx-xxxx
Burkard, Forrest A., xxx-xx-xxxx
Burke, Terry A., xxx-xx-xxxx
Butler, Frederick W., xxx-xx-xxxx
Buxton, Leroy W., xxx-xx-xxxx
Cain, John H., xxx-xx-xxxx
Campbell, Donald B., xxx-xx-xxxx
Campbell, Frank B., xxx-xx-xxxx
Campbell, William H., Jr., xxx-xx-xxxx
Campione, Joseph A., xxx-xx-xxxx
Cannon, Roger S., xxx-xx-xxxx
Canter, Carl W., xxx-xx-xxxx
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CONFIRMATIONS

Executive nominations confirmed by the Senate September 18, 1986:

FEDERAL EMERGENCY MANAGEMENT AGENCY

Harold T. Duryee, of the District of Columbia, to be Federal Insurance Administrator, Federal Emergency Management Agency.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Edward J. Heinz, xxx-xx-xxxx xxx-...FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Bradley C. Hosmer, xxx-xx-xxxx xxx-...FR, U.S. Air Force.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Forrest S. McCartney, xxx-xx-xxxx xxx-...FR, U.S. Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3040(b), to be appointed as Assistant Surgeon General/Chief, Dental Corps, U.S. Army:

Brig. Gen. Billie B. Lefler xxx-xx-xxxx, U.S. Army.

The following-named Army Reserve officer for appointment as Chief, Army Reserve, under the provisions of title 10, United States Code, section 3019:

Maj. Gen. William Francis Ward, xxx-xx-x... xxx-...

The following officers for appointment as Reserve commissioned officers in the Adjutant General's Corps, Army National Guard of the United States, Reserve of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. James A. Ryan, xxx-xx-xxxx.
Brig. Gen. Carl G. Farrell, xxx-xx-xxxx.
Brig. Gen. Charles E. Scott, xxx-xx-xxxx.

The following-named Army Dental Corps Competitive Category officer for appointment in the U.S. Army to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

To be permanent brigadier general

Col. Thomas R. Tempel xxx-xx-xxxx, Dental Corps Competitive Category, U.S. Army.

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Paul F. McCarthy, Jr., xxx-xx-x... xxx-.../1310, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. (lower half) Paul D. Miller, xxx-xx-xxxx/1110, U.S. Navy.

The following-named rear admirals (lower half) of the line of the Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICER

Roger Francis Bacon.
Jerry Creighton Breast.
Paul Donald Butcher.
Guy Haldane Curtis III.
Harry Kenneth Fiske.
Raymond Paul Ilg.

Jerome Lamarr Johnson.
Robert Joseph Kelly.
Robert Kalani Uichi Kihune.
Henry Herrward Mauz, Jr.
William Tyler Pendley.
James Guy Reynolds.
Dean Reynolds Sackett, Jr.
James Michael Gleaso Seely.
John Frederick Shaw.
Hugh Larimer Webster.
John Raymond Wilson, Jr.

RESTRICTED LINE—ENGINEERING DUTY OFFICER

Malcolm Mackinnon, III.
Kenneth Cornelius Malley.

RESTRICTED LINE—AERONAUTICAL ENGINEERING DUTY OFFICER

John Clark Weaver.

The following-named rear admirals (lower half) of the U.S. Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

CIVIL ENGINEER CORPS

Arthur William Fort.
Frederick Guyer Kelley.

The following-named rear admirals (lower half) of the Reserve of the U.S. Navy for permanent promotion to the grade of rear admiral in the line and staff corps, as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

UNRESTRICTED LINE OFFICERS

John Edward Love.
John Dennis Summers.

AERONAUTICAL ENGINEERING DUTY OFFICER (AERONAUTICAL ENGINEERING)

Clay Wayland Gordon Fulcher.

SPECIAL DUTY OFFICER (CRYPTOLOGY)

William Joseph Miles.

SPECIAL DUTY OFFICER (INTELLIGENCE)

Robert Patrick Tiernan.

MEDICAL CORPS OFFICERS

John Duncan Tolmie.
James Glen Roberts.

DENTAL CORPS OFFICER

Edward John O'Shea, Jr.

JUDGE ADVOCATE GENERAL'S CORPS OFFICER

Robert Edward Wiss.

CHAPLAIN CORPS OFFICER

John Joseph Hever.

IN THE AIR FORCE

Air Force nominations beginning Richard O. Abderhalden, Jr. and ending Daryl A. Yerkes, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1986.

IN THE MARINE CORPS

Marine Corps nominations beginning Robert J. Agro, and ending James G. Zumwalt, II, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 14, 1986.

Marine Corps nominations beginning Steven Barnett, and ending Mark A. Werth, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1986.

IN THE NAVY

Navy nominations beginning Susan D. Harvey, and ending Paul M. Votruba, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 9, 1986.